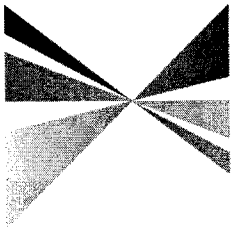


SOUTHERN CALIFORNIA



**ASSOCIATION OF
GOVERNMENTS**

Main Office

818 West Seventh Street

12th Floor

Los Angeles, California

90017-3435

t (213) 236-1800

f (213) 236-1825

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Orange County Transportation Authority: Charles Smith, Orange County

Riverside County Transportation Commission: Robin Lowe, Hemet

Ventura County Transportation Commission: Bill Davis, Simi Valley

MEETING OF THE

**COMMUNITY, ECONOMIC &
HUMAN DEVELOPMENT
COMMITTEE**

**Thursday, May 6, 2004
9:30 a.m. – 10:30 a.m.
Please Note Special Time**

**Hyatt Regency
711 South Hope Street
Los Angeles, CA 90017
213.683.1234**

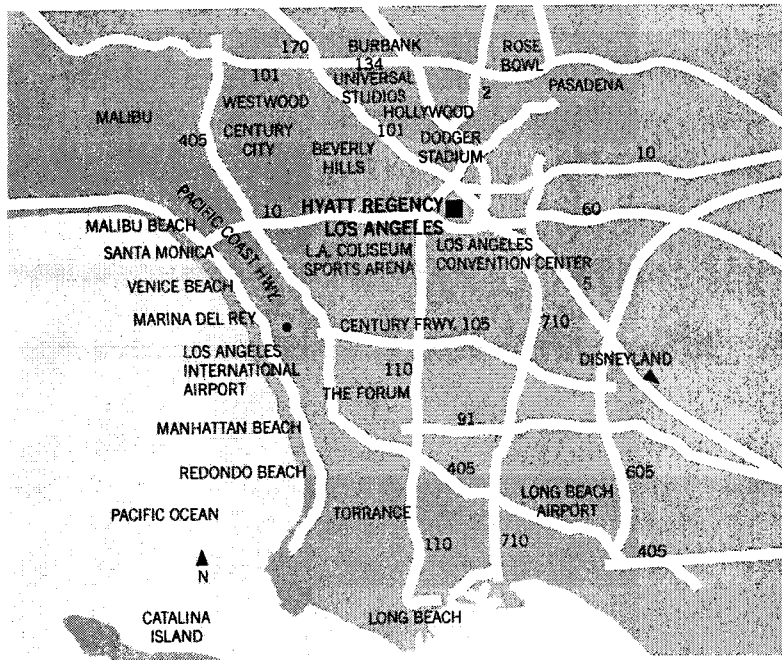
Agenda & Directions Enclosed

Agendas and Minutes for the CEHD Committee are also available at:

<http://www.scag.ca.gov/committees/cehd.htm>

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Jacob Lieb at 213.236.1921 or lieb@scag.ca.gov.

SCAG, in accordance with the American with Disabilities Act (ADA), will accommodate persons who require a modification of accommodation in order to participate in this meeting. If you require such assistance, please contact SCAG at 213.236.1896 at least 72 hours in advance of the meeting to enable SCAG to make reasonable arrangements. To request documents related to this document in an alternative format, please contact 213.236.1896.

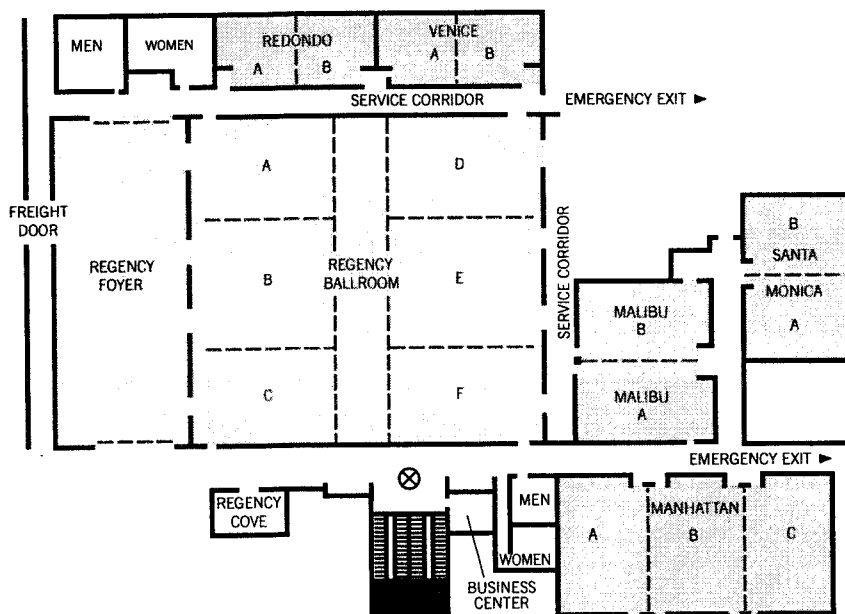


Hyatt Regency Los Angeles

DIRECTIONS

From Los Angeles Int'l Airport: Take Sepulveda Blvd. south to 105 Hwy East. Travel to 110 Freeway North. Exit on 6th St. Turn right on Hope St. Hotel is on corner of Hope and 7th St. Entrance is on right.

BALLROOM LEVEL



Note: All SCAG activities will be held on the Ballroom Level.

LOCATION

Approximately 15 miles northeast of the Los Angeles International Airport. Hotel is situated on the corner of 7th and Hope Street, inside Macy*s Plaza.

DIRECTIONS TO HOTEL FROM THE NORTH

From the 110 Harbor/Pasadena Freeway: Heading south, exit on 6th Street, make right on Hope, to the corner of Hope and 7th

From 101 Ventura/Hollywood: To the 110 Harbor/Pasadena freeway south, exit on 6th Street, make right on Hope, to the corner of Hope and 7th.

DIRECTIONS TO HOTEL FROM THE SOUTH

From the 5 (Santa Ana), heading north on 5, take the 10 (Santa Monica) freeway west to the 110 Harbor/Pasadena freeway north, exit on 6th Street, make right on Hope, to the corner of Hope and 7th.

From the 405 (San Diego) freeway: Heading north on the 405, take the 110 Harbor freeway north, exit on 6th Street, make right on Hope, to the corner of Hope and 7th OR 405 to 10 Santa Monica East to 110 Harbor (Pasadena) north, exit on 6th Street, make right on Hope, to the corner of Hope and 7th.

DIRECTIONS TO HOTEL FROM EAST

From the 10/60 Pomona freeway: take the 110 Harbor freeway north, exit on 6th Street, make right on Hope, to the corner of Hope and 7th.

From the 91 east: to the 5 Santa Ana freeway north, to the 10 Santa Monica freeway west, to the 110 Harbor freeway north, exit on 6th Street, make right on Hope, to the corner of Hope and 7th.

DIRECTIONS TO HOTEL FROM WEST

From the 10 Santa Monica east to the 110 Harbor freeway north, exit on 6th Street, make right on Hope, to the corner of Hope and 7th.

From the 101 Hollywood freeway: to the 110 Harbor freeway south, exit on 6th Street, make right on Hope, to the corner of Hope and 7th.

PARKING

The Hyatt Regency is located in Macy*s Plaza. For Self-Parking you can enter the Plaza parking garage on Hope, 8th or Flower. Take the Macy*s parking garage elevators to the Garden Level. Walk through the shopping plaza to the Hyatt lobby entrance.

LOADING DOCK

Enter parking garage on 8th Street between Hope and Flower. Inform Security of your purpose and proceed.

COMMUNITY, ECONOMIC & HUMAN DEVELOPMENT COMMITTEE

AGENDA

	PAGE #	TIME
1.0 <u>CALL TO ORDER</u>		
2.0 <u>PUBLIC COMMENT PERIOD</u> – Members of the public desiring to speak on an agenda item or on items not on the agenda, but within the purview of this Committee must notify the Secretary and fill out a speaker's card prior to speaking. A speaker's card must be turned in before the meeting is Called to Order. Comments will be limited to three minutes. The Chair may limit the total time for comments to twenty (20) minutes.		
3.0 <u>CONSENT CALENDAR</u>		
3.1 <u>Approval Item</u>		
3.1.1 <u>Minutes of the March 4, 2004 Meeting Attachment</u>	1	
3.2 <u>Receive and File</u>	5	
3.2.1 <u>State and Federal Legislative Matrix Attachment</u>		
4.0 <u>ACTION ITEMS</u>		
4.1 <u>Growth Vision Final Report Attachment</u> On March 25, 2004, the Growth Visioning Sub-Committee approved the Southern California Compass Growth Vision and Implementation Program as part of final report of the Sub-Committee to the Community, Economic and Human Development (CEHD) Committee. Recommended Action: Approve the Southern California Compass Growth Vision and Implementation Program and recommend approval to the Regional Council.	Mark Butala Senior Regional Planner SCAG Staff	13 20 minutes



COMMUNITY, ECONOMIC & HUMAN DEVELOPMENT COMMITTEE

AGENDA

		PAGE #	TIME
4.0	<u>ACTION ITEMS (cont.)</u>		
4.2	<u>Housing Legislation</u> Attachment	Jacob Lieb Senior Regional Planner SCAG Staff	14 15 minutes
	Staff will report to the Committee on the conclusion of the Statewide Housing Element Working Group process, and review the consensus recommendations of the group. Further, staff will discuss various new legislation that has emerged from the Working Group process for the Committee's consideration. Among the bills discussed will be AB 2158 which includes many of SCAG's Housing Element Reform Priorities.		
	Recommended action: Support AB 2158 (Lowenthal), and AB2348 (Mullen).		
5.0	<u>INFORMATION ITEMS</u>		
5.1	<u>Economic Forecast Conference</u> Planning Group Attachment	Bruce DeVine Chief Economist SCAG Staff	40 5 minutes
	A volunteer is needed from the CEHD to act as advisor to the Planning Group for the 8 th Annual Regional Economic Forecast Conference in November.		
5.2	<u>SB 744 (Dunn)</u> Attachment	Jacob Lieb Senior Regional Planner SCAG Staff	41 5 minutes
	Staff will report to the Committee regarding this legislation that proposes penalties for Housing Element non-compliance.		



COMMUNITY, ECONOMIC & HUMAN DEVELOPMENT COMMITTEE

AGENDA

PAGE #

TIME

5.0 INFORMATION ITEMS (cont.)

5.3 Intergovernmental Review Annual Report Attachment

Jeffrey Smith
Senior Regional Planner
SCAG Staff

42

See Time Note

Staff will present the year-end summary report for the Inter-Governmental Review effort.

Time: Note – We do not anticipate having sufficient time to present or discuss this agenda item. The item is for information, and can be continued at the request of the Committee.

5.4 Legislative Roundtable Attachment

Tonya Gorham
Govt. Affairs Analyst
SCAG Staff

43

See Time Note

Staff will provide a general legislative update including information on the state budget.

Time: Note – This item is agendized at the request of the Committee, but due to shorter meeting time in May, can be continued to the June meeting.

6.0 THE CHAIR'S REPORT

Mayor Alexander

7.0 STAFF REPORT

8.0 FUTURE AGENDA ITEMS

Any Committee members or staff desiring to place items on a future agenda may make such request. Comments should be limited to three minutes.



COMMUNITY, ECONOMIC & HUMAN DEVELOPMENT COMMITTEE

AGENDA

PAGE #

TIME

9.0 CLOSED SESSION

SCAG v. HCD & BT&H

Conference with Legal Counsel – existing
litigation to be heard in closed session in
pursuant to California Government Code Section
§ 54956.9(a)

10.0 ADJOURNMENT

The next Community, Economic & Human
Development Committee is scheduled for
Thursday, June 3, 2004 at the Temecula Creek
Inn.



**COMMUNITY, ECONOMIC & HUMAN
DEVELOPMENT COMMITTEE**

ACTION MINUTES

Thursday, March 4, 2004

**818 West Seventh Street
12th Floor, Riverside B
Los Angeles, CA 90017**

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE COMMUNITY, ECONOMIC, AND HUMAN DEVELOPMENT COMMITTEE. AUDIO-CASSETTE TAPE OF THE ACTUAL MEETING IS NOT AVAILABLE THIS MONTH DUE TO RECORDING EQUIPMENT MALFUNCTION.

The Community, Economic & Human Development Committee of the Southern California Association of Governments held its meeting at the SCAG offices in downtown Los Angeles. The meeting was called to order by the Chair, Mayor William Alexander, SANBAG Subregion. There was a quorum.

1.0 CALL TO ORDER

Chair William Alexander called the meeting to order at 10:32 a.m.

MEMBERS PRESENT

Vice Mayor Lyle Alberg
Mayor William Alexander, **Chair**
Councilmember Gary Bosworth
Councilmember Paul Bowlen
Councilmember Edward Burgnon
Mayor Cristina Cruz Madrid
Councilmember Alta E. Duke, **Vice-chair**
Councilmember Keith McCarthy
Supervisor Chris Norby
Councilmember Paul Nowatka
Councilmember Bev Perry
Councilmember Bedford Pinkard
Councilmember Deborah Robertson
Councilmember M. Jo Shields

SANBAG Subregion
SANBAG Subregion
CVAG Subregion
City of Cerritos
SANBAG Subregion
SGVCOG Subregion
City of La Palma
City of Downey
City of Orange
City of Torrance
City of Brea
City of Oxnard
SANBAG Subregion
City of Brawley

MEMBERS NOT PRESENT

Mayor Pro Tem Mike Dispenza
Councilmember Bart Doyle
Councilmember Josie Gonzales

City of Palmdale
City of Sierra Madre
SANBAG Subregion

Councilmember Manuel Guillen
Councilmember Susan Longville
Mayor Ronald Loveridge
Councilmember Efren J. Moreno, Jr.
Councilmember Jan Perry
Councilmember Marsha Ramos
Councilmember Ed Reyes
Councilmember Laura Richardson
Mayor Pro Tem Van T. Tran
Mayor Charles White
Councilmember Bob Yousefian

Gateway Cities COG
SANBAG Subregion
City of Riverside
San Gabriel Valley COG
City of Los Angeles
Arroyo Verdugo Subregion
City of Los Angeles
City of Long Beach
OCCOG Subregion
WRCOG Subregion
City of Glendale

2.0 PUBLIC COMMENT PERIOD

There were no public comments at this meeting.

3.0 CONSENT CALENDAR

The following consent calendar item was approved without objection.

3.1 Approval Item

3.1.1 Minutes of the February 5, 2004 Meeting

3.2 Receive and File

3.2.1 Intergovernmental Review Activity Report: 4th Quarter

3.2.2 State and Federal Legislative Matrix

4.0 ACTION ITEM

4.1 Regional Transportation Plan (RTP) Growth Forecast

Ms. Lynn Harris, Manager of Community Development, presented the revised growth forecast for the RTP that the Regional Council will consider for adoption in April. Ms. Harris gave an overview of the process of public outreach and the collection and review of comments. Several questions were asked by members of the Committee regarding the revised forecast numbers, including whether comments had been satisfactorily addressed for the Gateway Cities area and for Riverside County. Staff stated that all levels of technical review were satisfied with the forecast results. The Committee approved the recommendation to forward to the Regional Council for adoption, with no objections.

ACTION: It was MOVED (McCarthy) and SECONDED (Perry) to **adopt the recommended action to approve and forward to the Regional Council the 2004 State and Federal Legislative Program Draft.**

5.0 INFORMATION ITEMS

5.1 Regional Housing Needs Assessment (RHNA/Housing Element Legislative Reform Update

Staff updated the committee on developments related to the next RHNA. Specifically staff reported that the Legislative Analyst's Office recommended eliminating the RHNA mandate. Further, staff reported that the Statewide Housing Element Working Group is nearing completion of negotiated changes to State housing statute. There was substantial discussion leading to an agreement to review broad legislative and fiscal issues affecting housing at a future meeting.

5.2 Housing Summit Update

Staff reported on progress in planning the upcoming Housing Summit, which is currently scheduled for May 21. Assemblyman Alan Lowenthal has agreed to participate, and the Steering Committee is hopeful that Secretary of Business, Transportation and Housing Sunne Wright McPeak will agree to attend as well.

6.0 THE CHAIR'S REPORT

SCAG President Bev Perry reported that the Growth Visioning Sub-Committee will hold one more meeting before dissolving. The Draft Growth Vision will come before the CEHD next month.

7.0 STAFF REPORT

Staff informed the Committee of two upcoming events; a forum on workforce housing on March 25, and the Rail-Volution Conference on September 18-22.

8.0 FUTURE AGENDA ITEMS

There were no future agenda items scheduled at this meeting.

9.0 CLOSED SESSION

No Closed Session held

10.0 ADJOURNMENT

The meeting was adjourned at 11:30 a.m. The next CEHD meeting will be held at 10:30 a.m. on Thursday, May 6, 2004 at the Hyatt, in the Macy's Plaza, across the street from the SCAG office.

Signed:


Lynn Harris
Manager, Community Development

MEMO

TO: Transportation and Communications Committee
and the Community, Economic & Human Development Committee

FROM: Charlottee Eckelbecker, Government Affairs Analyst
(213) 236-1811, eckelbecker@scag.ca.gov

SUBJECT: State Legislative Matrix

DATE: May 6, 2004

SUMMARY:

A legislative matrix is attached for your review. It lists bills and constitutional amendments of interest within the Committee's jurisdiction that are currently making their way through the Legislature. The list is current as of 4/16/04.

Policy committees of the Legislature have until May 7th, the day after the General Assembly, to hear and report non-fiscal bills introduced in their house to the floor. Bills must be passed out of their house of origin by May 28th.

All work related to adopting the recommend staff action is contained within the adopted FY 2003/2004 budget and adopted 2004 SCAG Legislative Program and does not require the allocation of any additional financial resources.

Private file: EconomicDevelopment

CA AB 1855 **AUTHOR:** Maze (R)
TITLE: Infrastructure and Economic Development Bank
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 01/29/2004
COMMITTEE: Assembly Jobs, Economic Development and The Economy Committee
HEARING: 04/20/2004 9:00 am
SUMMARY:
Amends the Bergeson-Peace Infrastructure and Economic Development Bank Act. Includes among criteria for project assistance a requirement that priority be given to projects consistent with specified criteria established by the bank for the Infrastructure State Revolving Fund Program.
STATUS:
03/30/2004 In ASSEMBLY Committee on JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY: Not heard.

CA AB 1998 **AUTHOR:** Dutton (R)
TITLE: Real Investment in California's Economy Program
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/13/2004
COMMITTEE: Assembly Revenue and Taxation Committee
HEARING: 05/03/2004 1:30 pm
SUMMARY:
Provides an exemption from sales and use taxes for the gross receipts from the sale, storage, use, or other consumption of, tangible personal property purchased by a qualified person primarily in any state of manufacturing, including the generation of electricity, processing, refining, fabricating, or recycling of property, and introduced into the process.
STATUS:
03/18/2004 To ASSEMBLY Committee on REVENUE AND TAXATION.

CA AB 2070 **AUTHOR:** Houston (R)
TITLE: Sales, Use, Income and Corporation Taxes: Credit
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2004
COMMITTEE: Assembly Revenue and Taxation Committee
HEARING: 05/03/2004 1:30 pm
SUMMARY:
Provides a sales, use, income and corporation tax credit for investments in tangible property used in manufacturing, refining, fabricating or recycling. Allows a credit against the Personal Income Tax and the Corporation Tax for qualified property, placed in service in the State.
STATUS:
03/18/2004 To ASSEMBLY Committee on REVENUE AND TAXATION.

CA SB 1295 **AUTHOR:** Morrow (R)
TITLE: Sales, Income, Use, and Corporation Taxes
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2004
LOCATION: Senate Revenue and Taxation Committee
SUMMARY:
Provides an exemption from sales and use taxes for the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property purchased for use by a qualified person primarily in any state engaged in a new trade or business of manufacturing, processing, refining, fabricating or recycling of property, and introduced into the process.
STATUS:
02/26/2004 To SENATE Committee on REVENUE AND TAXATION.

Private file: Housing

CA AB 1268 **AUTHOR:** Wiggins (D)
TITLE: Land Use

006

FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/21/2003
LAST AMEND: 06/23/2003
LOCATION: Senate Local Government Committee
SUMMARY:

Requires, upon the revision of a land use element of a general plan to increase the amount of land designated for residential development, a city or county to consider the need for land sufficient for the community's growth over the subsequent 20-year period.

STATUS:

06/26/2003 Withdrawn from SENATE Committee on RULES.
 06/26/2003 Re-referred to SENATE Committee on LOCAL GOVERNMENT.
Position: CSAC-Pending

CA AB 1970

AUTHOR: Harman (R)
TITLE: Land Use: Housing Element
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/12/2004
COMMITTEE: Assembly Local Government Committee
HEARING: 04/21/2004 1:30 pm
SUMMARY:

Authorizes a city that meets specified requirements to adopt a housing element that makes no provision for new housing or the share of regional housing needs.

STATUS:

03/11/2004 To ASSEMBLY Committees on LOCAL GOVERNMENT and HOUSING AND COMMUNITY DEVELOPMENT.

CA AB 2158

AUTHOR: Lowenthal (D)
TITLE: Housing Elements: Regional Housing Need
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/18/2004
LAST AMEND: 04/12/2004
COMMITTEE: Assembly Housing and Community Development Committee
HEARING: 04/21/2004 9:00 am
SUMMARY:

Relates to city, county or city and county general plan housing element. Revises the procedures for determining shares of the existing and projected regional housing need for cities, counties and subregions at all income levels.

STATUS:

04/14/2004 From ASSEMBLY Committee on LOCAL GOVERNMENT: Do pass to Committee on HOUSING AND COMMUNITY DEVELOPMENT.

COMMENTARY:

SCAG staff participates on the Lowenthal Working Group that crafted this bill.

CA AB 2175

AUTHOR: Canciamilla (D)
TITLE: Conversion of Rental Housing
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/18/2004
COMMITTEE: Assembly Housing and Community Development Committee
HEARING: 04/28/2004 9:00 am
SUMMARY:

Authorizes notwithstanding any provision of the Ellis Act or any other statute, the conversion of existing housing if, among other conditions, the existing tenants have been offered a right of first refusal to purchase their units at fair market value, at least a majority of the tenants purchase their units, the landlord does not require the tenant to purchase the unit, and the notice to convert is provided to the tenants by the landlord.

STATUS:

03/18/2004 To ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT.

CA AB 2247

AUTHOR: Salinas (D)
TITLE: Local Planning

007

FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/19/2004
LOCATION: ASSEMBLY
SUMMARY:
 States the intent of the Legislature to encourage long term planning.
STATUS:
 02/19/2004 INTRODUCED.

CA AB 2264 **AUTHOR:** Chavez (D)
TITLE: General Plan: Housing Element
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/19/2004
LAST AMEND: 04/12/2004
LOCATION: Assembly Housing and Community Development Committee
SUMMARY:
 Relates to general plan housing elements. Requires an analysis of an available governmental subsidy program relative to preservation of affordable housing, and a program to implement the policies in the housing element to also identify available private funds. Provides a city located in Los Angeles County may elect to commit 50% of the tax increment funds to the county and the county may pledge moneys for bonds for low and moderate income housing.
STATUS:
 04/12/2004 Withdrawn from ASSEMBLY Committee on LOCAL GOVERNMENT.
 04/12/2004 Re-referred to ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT.
 04/12/2004 From ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT with author's amendments.
 04/12/2004 In ASSEMBLY. Read second time and amended. Re-referred to Committee on HOUSING AND COMMUNITY DEVELOPMENT.

CA AB 2348 **AUTHOR:** Mullin (D)
TITLE: Housing
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/19/2004
COMMITTEE: Assembly Local Government Committee
HEARING: 04/21/2004 1:30 pm
SUMMARY:
 Allows a county or city to reduce its share of regional housing needs by 15% for each income group under prescribed conditions.
STATUS:
 03/11/2004 To ASSEMBLY Committees on LOCAL GOVERNMENT and HOUSING AND COMMUNITY DEVELOPMENT.
Position: CSAC-Pending

CA AB 2471 **AUTHOR:** Longville (D)
TITLE: Transit Service: Housing Developments
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/19/2004
LOCATION: Assembly Transportation Committee
SUMMARY:
 Requires the Office of the Legislative Analyst to conduct a study of costs to transit operators of providing transit service to new housing development of more than 150 units. Requires the Office to estimate the costs to local governments of accommodating an auto-oriented environment in these housing developments.
STATUS:
 03/18/2004 To ASSEMBLY Committee on TRANSPORTATION.

CA AB 2702 **AUTHOR:** Steinberg (D)
TITLE: Housing: Second Units
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/20/2004

008

LAST AMEND: 03/26/2004
COMMITTEE: Assembly Housing and Community Development Committee
HEARING: 04/21/2004 9:00 am
SUMMARY:

Requires local agencies to permit 2nd units in all residential zones pursuant to specified criteria, but would authorize local agencies to impose greater restrictions on 2nd units in a particular residential zone than on 2nd units in other residential zones. Provides that a local agency may not preclude or effectively preclude 2nd units unless the local agency makes findings based on substantial evidence. Prohibits certain related ordinances.

STATUS:

04/14/2004 From ASSEMBLY Committee on LOCAL GOVERNMENT: Do pass to Committee on HOUSING AND COMMUNITY DEVELOPMENT.

CA AB 2980

AUTHOR: Salinas (D)
TITLE: Housing Element: Self-Certification
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/20/2004
LAST AMEND: 04/12/2004
COMMITTEE: Assembly Housing and Community Development Committee
HEARING: 04/21/2004 9:00 am
SUMMARY:

Provides, until January 1, 2016, procedures whereby a city or county may elect to participate in alternative production-based certification of its housing element and would make those cities and counties eligible for specified state housing funds in the same manner as other jurisdictions.

STATUS:

04/14/2004 From ASSEMBLY Committee on LOCAL GOVERNMENT: Do pass to Committee on HOUSING AND COMMUNITY DEVELOPMENT.

CA SB 744

AUTHOR: Dunn (D)
TITLE: Planning: Housing
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/21/2003
LAST AMEND: 06/03/2003
LOCATION: ASSEMBLY
SUMMARY:

Requires the Department of Housing and Community Development to hear appeals of city, county or city and county decisions on applications for the construction of housing developments that meet specified affordability requirements.

STATUS:

01/26/2004 In SENATE. Read third time. Passed SENATE. *****To ASSEMBLY.
Position: CSAC-Opp, League-Opp

CA SB 898

AUTHOR: Burton (D)
TITLE: Open Space and Agricultural Land
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/21/2003
LAST AMEND: 05/12/2003
LOCATION: Assembly Local Government Committee
SUMMARY:

Declares the intent of the Legislature to enact legislation that would provide long-term protection for California's productive agricultural lands and the viability of this important sector of the State economy.

STATUS:

06/19/2003 To ASSEMBLY Committee on LOCAL GOVERNMENT.
Position: League-Opp

CA SB 1145

AUTHOR: Burton (D)
TITLE: Tenancy
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 01/22/2004
COMMITTEE: Senate Judiciary Committee

HEARING: 04/20/2004 1:30 pm**SUMMARY:**

Extends indefinitely existing law which requires that if a landlord increases the rent of a month-to-month tenancy in excess of 10% of the amount of the rent charged to a tenant annually, the landlord shall provide an additional 30-days' notice prior to the effective date of the increase. Deletes provisions which establish certain rebuttable presumptions of habitability in unlawful detainer actions.

STATUS:

02/17/2004

To SENATE Committee on JUDICIARY.

CA SB 1263

AUTHOR:

Torlakson (D)

TITLE:

Development Projects: Mandatory Approval

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/13/2004

LOCATION:

Senate Local Government Committee

SUMMARY:

Requires a public agency to approve a development project that is consistent with certain specific plans approved on or after July 1, 2004, unless the agency finds that approval would result in a specific adverse effect upon the public health or safety that cannot feasibly be mitigated or avoided.

STATUS:

02/26/2004

To SENATE Committees on LOCAL GOVERNMENT and ENVIRONMENTAL QUALITY.

Position:

CSAC-Pending

CA SB 1592

AUTHOR:

Torlakson (D)

TITLE:

Local Planning

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LAST AMEND:

04/13/2004

COMMITTEE:

Senate Local Government Committee

HEARING:

04/21/2004 8:30 am

SUMMARY:

Requires each city and each county to adopt or update an infill ordinance or specific plan that identifies potential infill sites and specifies appropriate zoning to encourage infill development on vacant and ordinance to provide at least 5 incentives for infill housing.

STATUS:

04/13/2004

From SENATE Committee on LOCAL GOVERNMENT with author's amendments.

04/13/2004

In SENATE. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT.

Position:

CSAC-Pending

CA SB 1595

AUTHOR:

Ducheny (D)

TITLE:

State Housing Investment Trust Act

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LOCATION:

Senate Housing and Community Development Committee

SUMMARY:

Enacts the State Housing Investment Trust Fund Act which would authorize the issuance of bonds for the purpose of financing new construction and rehabilitation of housing developments affordable to low and very low income individuals and families. Requires voter approval.

STATUS:

03/04/2004

To SENATE Committee on HOUSING AND COMMUNITY DEVELOPMENT.

Position:

CSAC-Pending

CA SB 1656

AUTHOR:

Karnette (D)

TITLE:

Land Use: Development Fees

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LOCATION:

Senate Rules Committee

SUMMARY:

Declares the Legislature's intent to enact legislation to impose fees or develop regulations that reduce community impacts including, but not limited to, traffic congestion and community blight.

STATUS:

03/04/2004

To SENATE Committee on RULES.

CA SB 1818

AUTHOR:

Hollingsworth (R)

TITLE:

Density Bonuses

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LAST AMEND:

04/01/2004

COMMITTEE:

Senate Housing and Community Development Committee

HEARING:

04/19/2004 1:30 pm

SUMMARY:

Relates to the Planning and Zoning Law which requires, when a housing developer proposes a development, that the city or county provide the developer with a density bonus or other incentives for the production of lower income housing units if the developer meets certain requirements. Requires that the local government provide a density bonus, incentives or concessions for the production of housing or child care facilities.

STATUS:

04/01/2004

From SENATE Committee on HOUSING AND COMMUNITY DEVELOPMENT with author's amendments.

04/01/2004

In SENATE. Read second time and amended. Re-referred to Committee on HOUSING AND COMMUNITY DEVELOPMENT.

Private file: LocalFinance

CA ACA 5

AUTHOR:

Cogdill (R)

TITLE:

Local Government Finance: Property Tax Revenue

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

12/11/2002

LOCATION:

Assembly Appropriations Committee

SUMMARY:

Proposes a constitutional amendment to modify property tax reduction and transfer requirements, for the 2004-05 fiscal year and each fiscal year thereafter, by prohibiting the total amount allocated to a county's Educational Revenue Augmentation Fund from exceeding the applicable percentage, set forth in a specified schedule, of the total amount allocated to that fund for the 2002-03 fiscal year.

STATUS:

05/28/2003

In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

05/28/2003

In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee.

Position:

CSAC-Sup, League-Sup

CA SB 1212

AUTHOR:

Ducheny (D)

TITLE:

Local Government Finance: Revenue Balancing Act

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/11/2004

LAST AMEND:

04/14/2004

COMMITTEE:

Senate Local Government Committee

HEARING:

04/21/2004 8:30 am

SUMMARY:

Provides that beginning with the 2005-06 fiscal year, an indefinite offset of the vehicle license fee by 67.5% and eliminates reimbursement payments to counties and cities that are required under the Vehicle License Fee Law, the Property Tax Law and the Motor Vehicle Fuel Tax Law. Requires each county and city annually receive, beginning with the 2005-06 fiscal year, a base amount determined with reference to payments received in the 2003-04 fiscal year.

STATUS:

04/14/2004

From SENATE Committee on LOCAL GOVERNMENT with author's amendments.

04/14/2004

In SENATE. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT.

NOTES:

Moreno Ducheny Staff: Mark Stivers (916) 445-8740

COMMENTARY:

The 2004 Legislative Program calls for SCAG to monitor local finance legislation via groups like the League of California Cities to preserve SCAG resources. SB 1212 attempts to minimize the fiscalization of land use, a traditional SCAG issue. SCAG opposed AB 1221 (Steinberg) in 2003 that would have effected a tax swap to stabilize the tax base.

CA SB 1312

AUTHOR:

Hollingsworth (R)

TITLE:

Historical and Cultural Resources

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/17/2004

LOCATION:

Senate Natural Resources and Wildlife Committee

SUMMARY:

Appropriates an unspecified sum to the Department of Parks and Recreation for allocation for the purpose of recovering, restoring, or rebuilding significant historical and cultural buildings, resources, or artifacts affected by the Southern California wildfires of 2003 in any of the affected Counties of Los Angeles, Riverside, San Bernardino, San Diego, or Ventura.

STATUS:

04/13/2004

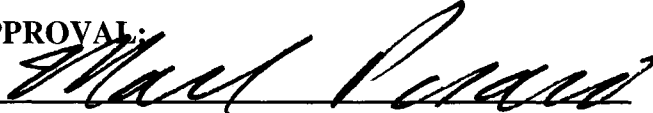
In SENATE Committee on NATURAL RESOURCES AND WILDLIFE: Not heard.

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REPORT

DATE: Community, Economic and Human Development Committee (CEHD)
TO: Lynn Harris, Manager, Community Development Division, 213-236-1875, harris@scag.ca.gov
FROM: May 6, 2004
SUBJECT: Growth Visioning Sub-committee Final Report to CEHD

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION: Approve the Southern California Compass Growth Vision and Implementation Program and recommend approval to the Regional Council.

SUMMARY:

On 3/25/04, the Growth Visioning Sub-committee took action to approve the Southern California Compass Growth Vision and Implementation Program as part of final report of the Sub-committee to the Community, Economic and Human Development (CEHD) Committee. This recommendation included that CEHD maintain the Implementation Program as a "living" document as further regional dialogues take place and other implementation consensus continues over the next seven years.

BACKGROUND:

In April of 1996, under the direction of CEHD, SCAG adopted the *Creating Livable Places* guide as the work plan for the Livable Places Initiative. The objective of the Initiative was to enhance community livability by promoting real-world examples of vibrant and attractive places in southern California as models of how local land use and balanced transportation policies can reduce auto travel and support more pedestrian, mixed use and transit-oriented development.

On October 7, 1999, SCAG staff presented to the CEHD Committee a status report of the Livable Communities program. The Committee decided that the Regional Council should utilize the substantial body of Livable Communities and "smart growth" work to assess the urban form impacts of the 2001 RTP and to embark on a regional growth visioning effort to consider a land use policy framework. On January 19, 2000 CEHD unanimously consented to establish a Growth Visioning Sub-committee to provide a policy framework for growth forecasts; provide direction on producing alternative urban form scenarios; consider balanced and efficient growth and transportation patterns; and consider other sustainable development and environmental issues.

Since its first meeting on July 10, 2000, the Sub-committee has been working diligently towards its mission to "develop a process that assists local, subregional and regional officials in developing strategies to accommodate growth that results in a preferred regional growth scenario." The Sub-committee directed this multi-year, collaborative work program that has resulted in numerous work products, formed the basis for the 2004 Regional Transportation Plan Preferred Alternative, and will continue to change the climate for regional planning and cooperation in the SCAG region.

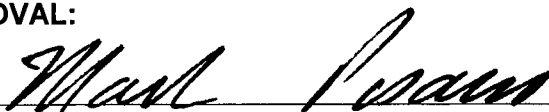
This spring draws to a close Phase 2 of the Growth Visioning program resulting in a Compass Growth Vision. The Compass Growth Vision is a conceptual guide for land use, transportation, and sustainability in Southern California. It consists of a concept map and a vision document (and other distribution pieces e.g. flyers, bookmarks, CD-ROMS). It is not a comprehensive plan or zoning map, rather, a detailed portrayal of how the concepts behind the Vision could be implemented to achieve the Regional Growth Principles adopted by the Growth Visioning Sub-committee in 2002 and convey a common understanding and image of how the region should develop over the next decades.

FISCAL IMPACT: None

REPORT

TO: Community, Economic and Human Development Committee
FROM: Jacob Lieb, Acting Lead Regional Planner, (213) 236-1921, lieb@scag.ca.gov
SUBJECT: Housing Legislation
DATE: May 6, 2004

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Support AB 2158 (Lowenthal) and AB 2348 (Mullin).

BACKGROUND:

Beginning in August 2004, staff has been providing monthly updates to the CEHD Committee on the progress of the Statewide Housing Element Working Group, and other legislative issues relating to the conduct of the Regional Housing Needs Assessment (RHNA). As of March 16, the working group has formally concluded its deliberations and provided consensus recommendations to the Legislature. These recommendations cover regional issues, as discussed below, which are included in AB 2158 (attached).

In negotiating these issues within the Working Group, staff was guided by SCAG's Housing Element Reform Priorities, adopted by the Regional Council in January 2002 (attached). We believe the result is the best possible fit with these priorities within a consensus process. The responsiveness to priorities is discussed briefly as follows:

1. Basing the RHNA on the Regional Transportation Plan
The consensus agreement calls for the COG to request use of the RTP forecast and timelines as the basis for the regional housing need determination.
2. Addressing inconsistencies in state policies affecting local land use
The allocation methodology within the proposed new process would call for the COG to account for the ways in which State land use policies affect the ability of local governments to develop new housing.
3. Allow consideration of extenuating circumstances at the local level
The consensus agreement calls for the COG to use a allocation method incorporating specific factors. These factors quantify the opportunities and constraints for housing development affecting local governments.
4. Provide for incentives to address housing need
The working group recommendations do not provide any direct incentives for addressing housing need, a predictable result given the State budget crisis. However, staff is hopeful that on-going negotiations will allow for a performance-based local certification option, that would provide some incentive to local governments.



REPORT

Also of note, the recommendations would create refinements in the sub-regional delegation program. The proposed new program would call for sub-regions accepting delegation to assume the authorities and responsibilities otherwise given to the regional COG, and would allow sub-regions to seek reimbursement.

The working group's recommendations on other (non-regional issues) are included in AB 2348 (attached). This bill includes language that would provide clarity on how local governments are to identify sites, and how to ensure that sites are available for housing, within the context of the Housing Element.

Finally, the group failed to reach consensus on various issues including a proposed program for local certification of Housing Elements, and on penalties for Housing Element non-compliance. Several members of the Working Group are continuing discussions around these issues, and staff will continue to report on any progress made.

ATTACHMENT:

Text of AB 2158

FISCAL IMPACT:

SCAG's activities in pursuing legislation are included in the agency Overall Work Program for FY03-04. The recommended action would not incur any additional costs.

ATTACHMENT 1

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS HOUSING ELEMENT REFORM PRIORITIES

ADOPTED BY REGIONAL COUNCIL, DECEMBER 13, 2001

The Southern California Association of Governments (SCAG) believes that reform of the State of California's Housing Element and Regional Housing Needs Assessment Processes is badly needed. The process, as envisioned under current law (CA Govt. Code Section 65583-4), is complex, needlessly contentious, and lacks credibility among local governments and others. If the Housing Element process is to fulfill its legislative intent, to ensure adequate supplies of housing, the reforms discussed below should be considered and made by the Legislature. **Note, these proposals are in prioritized order, with SCAG's proposed highest priority listed first.**

Housing Element Reform Priority Number 1:

Base Regional Housing Need Determinations on Regional Transportation Plan (RTP) forecasts solely.

Under current law, the Department of Housing and Community Development (HCD) issues a preliminary need assignment to regional Councils of Government (COGs) based on Department of Finance (DOF) projections. Through a consultation process, the COG may substitute its own transportation forecast, at HCD's discretion. HCD allows this substitution, generally, if the regional number is reasonably close to the State number, or if a reconciliation of the two numbers can be negotiated (e.g. the region adjusts its number to meet or come close to the DOF number).

SCAG proposes allowing COGs to use their own regionally derived transportation forecasts as the basis for housing need determinations, without reconciling to a DOF number. HCD would be able to question the region's forecast to a defined and limited extent. HCD's challenge of the appropriateness of the region's numbers should be resolved promptly, and in a manner prescribed in statute, preferably by a third party. Further, the schedule for RHNA and Housing Element updates should be revised to accommodate best use of RTP forecasts, which are updated every 3 years. This proposal would reset the Housing Element schedule to a six year cycle (from five), beginning at the conclusion of the current round of updates.



Housing Element Reform Priority Number 2:

Require the State to address inconsistent and contradicting mandates linked to housing, i.e., Coastal commission, transportation planning, and water policy requirements.

Under current housing law, communities are required to enact land-use policies that accommodate new housing construction to meet the need assignment. Other State laws and policies can prohibit or significantly constrain housing in certain conditions, notably when the community cannot guarantee water availability, or provide for new schools.

SCAG proposes that the State be required to demonstrate consistency among statewide plans and policies. Consistency should be shown among issues including, but not limited to, endangered species and habitat planning, water planning and other infrastructure issues, and provision of adequate school facilities. This could be accomplished through the Governor's Office of Planning and Research.

Housing Element Reform Priority Number 3:

Allow communities to address the conflicts between housing allocations and extenuating circumstances at the local level i.e., land limitations, cost of land, agricultural lands, etc.

Current housing law requires communities to designate sites for the construction of new housing to meet the needs of a growing population and employment base. Increasingly, local jurisdictions cannot identify required sites for new housing due to land use limitations that are beyond their control. In older, established urban areas, communities have few parcels that are unbuilt, and those that they have are often entitled, contaminated, or otherwise restricted, allowing the locality little or no opportunity to create new housing. In less developed, outlying areas, often the available land is subject to endangered species or other environmental restrictions. As such, communities should be afforded more flexibility in how housing need is allocated and in how need is met.

SCAG supports various proposals, including streamlining trade and transfer provisions. Further proposals call for allowing alternative methods of meeting need (apart from finding sites for new construction) including rehabilitation, conversion, and creation of accessory units. **Further, SCAG proposes** that regional COGs be empowered to identify various types of housing constraints as part of the RHNA process, and make adjustments to future need determinations accordingly, including use of expanded trade and transfer provisions.

Housing Element Reform Priority Number 4:

Create or augment incentives to local governments for building and planning for housing.

Communities are required to have a Housing Element that conforms to State law. The lack of a conforming Housing Element can leave a jurisdiction susceptible to legal challenges from developers, housing advocates and others. Conversely, communities are not rewarded for meeting need assignments, or for taking on additional need. There are two specific disincentives under current law for aggressively addressing housing need, (1) a lack of State and other funding to produce affordable housing that is linked to Housing Element planning efforts, and (2), a State fiscal scheme whereby new housing development creates additional expense for a local agency, and strong incentives exist for other land development purposes, particularly retail. As such, the housing need assignment process is focused on achieving the lowest need number possible for most localities. We believe this is contrary to the original legislative purpose.

SCAG proposes creating new funds, and augmenting existing programs, to act as incentives for housing planning and production. Incentive proposals for housing planning and production involve (a) tying existing housing funds allocated by the State to the housing needs determination process, and (b) creating new sources of financing to reward pro-housing local policies. These funds can be pooled and allocated by regional COGs as part of the RHNA, and can be used to facilitate trades and transfers. A further iteration of this proposal would allow localities to “buy out” of a portion of their need assignments. The funds used to opt out would then be used to subsidize housing elsewhere in a region or sub-region. Further, legislation should be aimed promoting “revenue neutrality” for local governments when new housing is produced. This can be accomplished by a State-to-local property tax shift where new housing is developed consistent with planning goals.

♦ Other issues under consideration

SCAG does not, at this time, assign priority to other issues that have been, or may be part of discussions pertaining to Housing Element and RHNA reform. However, the region is prepared to support or oppose various proposals that may be forwarded by others. Notably:

- SCAG will support efforts to clarify Housing Element review and compliance standards. SCAG is aware that the Housing Element review process, as currently administered, can be burdensome,

confusing, and inconsistent for local governments. SCAG has identified this is as primarily a local issue, but is prepared to support, on behalf of its member cities and counties, proposals that would better define the process in statute.

- SCAG is not supportive of any additional penalties for Housing Element non-compliance.
- SCAG will consider support or oppose positions on other proposals as they are brought forward.

BILL NUMBER: AB 2158 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 12, 2004

INTRODUCED BY Assembly Member Lowenthal

FEBRUARY 18, 2004

An act to amend Section 65582 of , to add Sections 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, and 65584.07 to, and to repeal and add Section 65584 of, the Government Code, relating to ~~local planning~~ general plans

LEGISLATIVE COUNSEL'S DIGEST

AB 2158, as amended, Lowenthal. ~~Local planning: housing~~
Housing elements : regional housing need

(1) Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. The assessment includes the locality's share of the regional housing need. That share is determined by the appropriate council of governments, subject to revision by the Department of Housing and Community Development. A city, county, or city and county is required to submit a draft housing element or draft amendment to its housing element to the department for a determination of whether the draft complies with state law governing housing elements.

This bill would revise the procedures for determining shares of the existing and projected regional housing need for cities, counties, and subregions at all income levels, as specified. By imposing additional duties upon local officials, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these

statutory provisions.

~~The Planning and Zoning Law requires a city or county to adopt a general plan for land use development that includes, among other things, a housing element. It also requires the Department of Housing and Community Development to determine the regional share of the statewide housing need, and each council of governments to determine the existing and projected housing need for its region.~~

~~This bill would define "existing and projected housing need" for purposes of these housing element requirements.~~

Vote: majority. Appropriation: no. Fiscal committee:

~~no~~ yes . State-mandated local program:

~~no~~ yes .

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 65582 of the Government Code is~~

SECTION 1. Section 65582 of the Government Code is amended to read:

65582. As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

~~(e) "Low- and moderate-income households" means persons and families of low or moderate incomes as defined by Section 50093 of the Health and Safety Code.~~

SEC. 2. Section 65584 of the Government Code is repealed.

~~65584. (a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county.~~

~~The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties~~

~~that already have disproportionately high proportions of lower income households. Based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, and in consultation with each council of governments, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The council of governments shall provide each city and county with the department's information. The council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity if this responsibility is requested by a county and all cities in the county, a joint powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional agency established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that delegation of responsibility.~~

~~(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a).~~

~~If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.~~

~~(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.~~

~~(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.~~

~~(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.~~

~~(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.~~

~~(C) The date of the hearing shall be at least 30 days from the date of the notification.~~

~~(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographical restraints on the production of housing.~~

~~(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grants a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the council of governments or the department.~~

~~(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.~~

~~(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:~~

~~— (A) One or more cities within the county agree to increase its share or their shares in an amount that will make up for the reduction.~~

~~— (B) The transfer of shares shall only occur between a county and cities within that county.~~

~~— (C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.~~

~~— (D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a).~~

~~— (6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.~~

~~— (d) (1) In the event an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under this section, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination. The revised determination shall be made within one year of the incorporation of the new city based upon the methodology described in subdivision (a) and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing need nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.~~

~~— (2) Except as provided in paragraph (3), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.~~

~~— (3) Paragraph (2) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that~~

~~specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.~~

~~(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.~~

~~(f) A fee may be charged to interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to 7 days the time within which materials and data shall be made available to interested parties.~~

~~(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.~~

SEC. 3. Section 65584 is added to the Government Code, to read:

65584. (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.

(b) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05 with the advice of the department.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the councils of governments, respectively, regarding the regional housing need may be extended by not more than 60 days if the extension will enable

access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall be consistent with all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

(3) Promoting an improved intraregional relationship between jobs and housing.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census.

(e) For purposes of this section, "household income levels" are as determined by the department as of the most recent decennial census pursuant to the following code sections:

(1) Very low incomes as defined by Section 50105 of the Health and Safety Code.

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.

(4) Above moderate incomes are those exceeding the moderate income level of Section 50093 of the Health and Safety Code.

(f) A fee may be charged to interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to seven days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 4. Section 65584.01 is added to the Government Code, to read:

65584.01. (a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, shall determine the existing and projected need for housing for each region in the

following manner:

(b) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, and consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(c) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (E), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to paragraph (1) of subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the data items set forth in paragraph (1) of subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to paragraph (1) of subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

SEC. 5. Section 65584.02 is added to the Government Code, to read:

65584.02. To the extent practical, the determination of regional housing need made by the department in consultation with each council of governments should be coordinated with regional transportation planning performed by the council of governments in response to federal and state requirements. Notwithstanding this intent, and because these plans have different applications, this section should not be construed to require use of the same data, assumptions, or methodology in the regional housing need determination and the regional transportation plan.

(a) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the existing and projected need for housing may be determined for each region by the department as follows, as an alternative to the process pursuant to Section 65584.01:

(1) In a region in which at least one subregion has accepted

delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 28 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing

need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the determination of regional need, a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. For a housing element update due date pursuant to Section 65588 that is prior to January 2007, the department may approve a request that is submitted prior to December 31, 2004, notwithstanding the deadline in this section. This request shall include all of the following:

(A) Proposed data and assumptions for factors contributing to housing need beyond household growth identified in the forecast. These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527, but a period not less than five years, and not longer than six years.

(C) A comparison between the population and household assumptions used for the Regional Transportation Plan with population and household estimates and projections of the Department of Finance.

The council of governments may include a request to extend the housing element deadline pursuant to Section 65588 to a date not to exceed two years, for the purpose of coordination with the scheduled update of a regional transportation plan pursuant to federal law.

(3) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(4) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request of the council of governments, the determination for the region shall be made pursuant to Sections 65584 and 65584.01.

SEC. 6. Section 65584.03 is added to the Government Code, to read:

65584.03. (a) At least 28 months prior to the scheduled housing element update required by Section 65588, at least two or more cities

and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote as provided for in rules adopted by the local governments comprising the subregion or shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or counties.

(b) Upon formation of the subregional entity, the entity shall notify the council of governments of this formation. If the council of governments, or the department where there is no council of governments, has not received notification from an eligible subregional entity at least 27 months prior to the scheduled housing element update required by Section 65588, the council of governments, or the department where there is no council of governments, shall implement the provisions of Sections 65584 and 65584.04. The delegate subregion and the council of governments shall enter into an agreement that sets forth the process, timing, and other terms and conditions of the delegation of responsibility by the council of governments to the subregion.

(c) At least 25 months prior to the scheduled revision, the council of governments, or the department where there is no council of governments, shall determine the share of regional housing need assigned to each delegate subregion. The share or shares allocated to the delegate subregion or subregions by a council of governments shall be in a proportion consistent with the distribution of households assumed for the comparable time period of the applicable regional transportation plan. Prior to allocating the regional housing needs to any delegate subregion or subregions, the council of governments or the department will hold at least one public hearing, and may consider requests for revision of the proposed allocation to a subregion. If a proposed revision is rejected, the council of governments shall respond with a written explanation of why the proposed revised share has not been accepted.

(d) If an eligible subregional entity fails to complete the regional housing need allocation process among its member jurisdictions in a manner consistent with this section and with the delegation agreement between the subregion and the council of governments, the allocations to member jurisdictions shall be made by the council of governments, or by the department where there is no council of governments.

SEC. 7. Section 65584.04 is added to the Government Code, to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, or subregions, where applicable pursuant to this section. The principles of subdivision (d) of Section 65584 shall be considered in development of the methodology.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The information shall be obtained in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that

allocates regional housing needs:

(1) Each member jurisdiction's existing jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) Any other factors adopted by the council of governments.

(7) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(8) High housing costs burdens.

(9) The housing needs of farmworkers.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a

city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

SEC. 8. Section 65584.05 is added to the Government Code, to read:

65584.05. (a) At least one and one-half years prior to the scheduled revision required by Section 65588, each council of governments shall distribute a draft allocation of regional housing needs to each local government and subregion, where applicable, based on the methodology adopted pursuant to Section 65584.04. The draft allocation shall include the underlying data and methodology on which the allocation is based. It is the intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need determined pursuant to Section 65584.01.

(b) Within 60 days following receipt of the draft allocation, a local government that is not part of a subregion, or the subregion, as applicable, may request a revision of its share of the regional housing need in accordance with the factors described in paragraphs (1) to (9), inclusive, of subdivision (d) of Section 65584.04, including any information submitted by the local government to the council of governments pursuant to subdivision (b) of that section. The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

(c) Within 60 days after the request submitted pursuant to subdivision (b), the council of governments shall accept the proposed revision, modify its earlier determination, or indicate, based upon the information and methodology described in Section 65584.04, why the proposed revision is inconsistent with the regional housing need.

(d) If the council of governments does not accept the proposed

revised share or modify the revised share to the satisfaction of the requesting party, the local government, or subregion, if applicable, may appeal its draft allocation based upon either or both of the following criteria:

(1) The council of governments failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04, or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The council of governments failed to determine its share of the regional housing need in accordance with the information described in, and the methodology established by, the council of governments pursuant to Section 65584.04.

(e) The council of governments shall conduct public hearings to hear all appeals within 60 days of the date established by the council of governments to file appeals. The city or county, or subregion if applicable, shall be notified within 10 days by certified mail, return receipt requested, of at least one public hearing on its appeal. The date of the hearing shall be at least 30 and not more than 35 days from the date of the notification. Before taking action on an appeal, the council of governments shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant. The council of governments' final action on an appeal shall be in writing and shall include information and other evidence explaining how its action is consistent with this article. The council of governments' final action on an appeal may require the council of governments to adjust the allocation of a local government that is not the subject of an appeal.

(f) The council of governments shall issue a proposed final allocation within 45 days of the completion of the 60-day period for hearing appeals. The proposed final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

(g) In the proposed final allocation plan, the council of governments shall adjust allocations to subregions and to local governments based upon the results of the appeals process specified in this section. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, then the council of governments shall distribute the adjustments proportionally to all subregions or local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments shall develop a methodology to distribute the amount greater than the 7 percent to local governments and subregions. In no event shall the total distribution of housing need equal less than the regional housing need, as determined pursuant to Section 65584.01. Two or more local governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local

governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the council of governments shall include the alternative distribution in the final allocation plan.

(h) Within 60 days of the issuance of the proposed final allocation plan pursuant to subdivision (g), each subregion established pursuant to Section 65584.03 shall provide the council of governments with its allocation of regional housing needs within the subregion adopted by the county and the majority of cities within the region with the majority of the population. Allocations agreed to within a subregion may differ from the draft allocations assigned local governments pursuant to this section, but in no event shall the total allocation in the subregion equal less than the total housing need allocated to the subregion pursuant to subdivision (a) of Section 65584.05. If the council of governments finds that the proposed allocation plan submitted by the subregion does not equal the total housing need allocated to the subregion, or if the subregion has not submitted an allocation within 60 days, then the council of governments shall allocate the housing needs to the individual local governments within the subregion to ensure that the total regional housing need is allocated.

(i) Within 45 days of receiving proposed subregional allocations pursuant to subdivision (h), the council of governments shall hold a public hearing to adopt a final allocation plan. The council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. Within 60 days of adoption by the council of governments, the department shall determine whether or not the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(j) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

SEC. 9. Section 65584.06 is added to the Government Code, to read:

65584.06. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall

delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need.

(c) Within 90 days following the department's determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department's final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the 60-day period.

SEC. 10. Section 65584.07 is added to the Government Code, to read:

65584.07. (a) During the period between adoption of a final regional housing needs allocation until the due date of the housing element update pursuant to Section 65588, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(2) The transfer of shares shall only occur between a county and cities within that county.

(3) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(4) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), and (3) above have been satisfied. The county and city or cities proposing the transfer shall submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to the council of governments or the department. The council of governments shall submit a copy of its decision regarding the proposed reduction to the department.

(b) After the due date for the housing element update, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) The county and the city or city and county have both updated their housing elements for the current planning period pursuant to Section 65588 and the department has determined that both elements are in substantial compliance with this article.

(2) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(3) The transfer of shares shall only occur between a county and cities within that county.

(4) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(5) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), (3), and (4) above have been satisfied. The county and city or cities proposing the transfer shall submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to the council of governments or the department. The council of governments shall submit a copy of its decision regarding the

proposed reduction to the department.

The county and cities which have executed transfers of regional housing need pursuant to this section shall amend their housing elements and submit them to the department for review pursuant to Section 65585.

All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(c) In the event an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under this section, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination.

The revised determination shall be made within one year of the incorporation of the new city based upon the methodology described in subdivision (a) and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing need nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

~~amended to read:~~

~~65582. As used in this article:~~

~~(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.~~

~~(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.~~

~~(c) "Department" means the Department of Housing and Community Development.~~

~~(d) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.~~

~~(e) "Existing and projected regional housing need" means a~~

~~reasonable calculation of the demand for housing within the region during the planning period, to be used for regional and local planning purposes.~~

~~(f) "Low- and moderate-income households" means persons and families of low or moderate incomes, as defined by Section 50093 of the Health and Safety Code.~~

MEMO

TO: CEHD Committee

FROM: Bruce DeVine, Chief Economist
(213) 236-1903, devine@scag.ca.gov

SUBJECT: Economic Forecast Conference Planning Group

DATE: April 7, 2004

BACKGROUND:

Preliminary staff work has begun on SCAG's 8th Annual Regional Economic Forecast Conference in November. The formal Conference Planning Group now needs to be convened. This group, comprising SCAG economics staff, the Cal State Long Beach and Cal State Fullerton forecasting teams, and other regional economists designs the program for the day, including the Conference theme, presentation topics, speakers, panel formats, etc. The group also suggests sponsors for the event and draws up a short list of luncheon keynote speakers.

Each year staff asks for a volunteer from the CEHD to act as advisor to the Planning Group for the period leading up to the Conference in November. The advisory job typically involves two planning meetings at SCAG, one in June and one in August or September, and attendance at the Conference. Arrangements for teleconferencing can be made in the event the advisor is unable to attend a meeting.

MEMO

TO: Community Economic and Human Development Committee (CEHD)
FROM: Jacob Lieb, Acting Lead Regional Planner, (213) 236-1921, lieb@scag.ca.gov
SUBJECT: SB 744 (Dunn)
DATE: May 6, 2004

RECOMMENDATION: Information Only

BACKGROUND

Senate Bill 744 (Dunn) was introduced on February 21, 2003, and was passed by the Senate on January 26, 2004. To date, the bill is not scheduled for hearing in the Assembly. SCAG staff is presenting this report to the Committee at the request of members of the Regional Council.

In its current form, the bill would allow a housing developer to appeal a local land use decision to the State Department of Housing and Community Development under specified conditions. These conditions include the lack of a Housing Element in compliance with State law, or a local action on a building permit application that is inconsistent with the Housing Element.

In January 2001, the Regional Council adopted its Housing Element Reform Priorities, which creates a regional policy opposing penalties for Housing Element non-compliance. As such, SCAG is opposed to the current SB744 in concept.

It should be noted that the recently completed Statewide Housing Element Working Group discussed the issue of Housing Element enforcement but did not reach closure during the time appointed the group by the Legislature. Several members of the working group, including both housing advocates in support of SB 744 and local governments in opposition, have agreed to continue negotiations around this issue, as well as on local performance based certification. Should an agreement emerge from those negotiations that either amends SB 744, or creates substitute legislation, SCAG will report to the Committee seeking any additional appropriate action.

MEMO

TO: Community, Economic and Human Development Committee
FROM: Jeffrey Smith, Senior Regional Planner, (213) 236 1867, e-mail: smithj@scag.ca.gov
DATE: May 6, 2004
SUBJECT: Intergovernmental Review Year 2003 Activity Report – Executive Summary

Recommended Action:

Receive and File

Summary:

SCAG's Intergovernmental Review Section (IGR) is responsible for performing a consistency review for regionally significant local plans, projects and programs with policies of the Regional Comprehensive Plan and Guide and the Regional Transportation Plan.

Attached for the Committee's information, is an Executive Summary report on IGR Activity for the Year 2003. This summary also provides information on the proposed potential number of dwelling units and square footage of new development based on information received by SCAG's IGR Section.

A more detailed report with project descriptions and development location maps will be available in late May 2004. The Intergovernmental Review Year 2003 Activity Report and Executive Summary will be posted on SCAG's IGR Web Page at www.scag.ca.gov/igr.

Fiscal Impact:

The staff resources necessary for Intergovernmental Review are contained within the adopted Fiscal Year 2003 / 2004 SCAG Budget.



MEMO

DATE: May 6, 2004

TO: The Community Economic and Human Development Committee (CEHD)

FROM: Tonya Gorham, Government Affairs Analyst
Phone: (213) 236-1988 E-Mail: gorham@scag.ca.gov

SUBJECT: Legislative Roundtable

RECOMMENDED ACTION: Information Only

SUMMARY:

At the March 4, 2004 meeting of the Community Economic and Human Development Committee (CEHD), the committee requested that staff provide a forum for discussion of general legislative issues and updates. Today's Legislative Roundtable is in response to the committee's request. Staff will provide a general legislative update, reviewing the SCAG legislative matrix as it pertains to the committee, as well as providing a brief update on the state budget as it relates to local finance. Specifically, staff will review the Building Industry Association's (BIA) Home Rule Initiative and the League of California Cities' Local Taxpayers and Public Safety Protection Act Initiative, as requested by the committee.



Text of Proposed Law

CALIFORNIA HOME RULE AMENDMENT CONSTITUTIONAL AMENDMENT AND STATUTE

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative expressly amends the Constitution by adding sections thereto and amending and repealing sections thereof, and adds sections to and amends and repeals provisions of the Government Code and the Revenue and Taxation Code. Existing provisions proposed to be deleted are printed in ~~strikeout type~~, and new provisions proposed to be added are printed in *italic type* to indicate they are new.

SECTION 1. Title. This measure shall be known and may be cited as the "California Home Rule Amendment."

SECTION 2. Findings and declarations. The people find and declare as follows:

(a) People have the most power to control government at the local level. This is the essence of home rule.

(b) Local government is far more efficient and responsible than state government in the use of tax revenues.

(c) Police protection, fire protection, public health, libraries, transportation, housing, and other important local community services must have an adequate, reliable, and guaranteed source of funding.

(d) Historically, local property taxes were used to pay for local community services. These local taxes have been taken by the state government, leaving local governments with a very small share of local property taxes, only 16 percent on average.

(e) Allowing local communities to keep more of their property taxes will safeguard funds for police and fire protection and other vital services.

(f) Making property taxes the principal source of local government revenues will require new residents in a community to pay their fair share of police, fire, parks,

health care, and other municipal services by contributing their property taxes to the city and county where they live.

(g) The State Legislature has approved laws that divert, use, or delay the payment of local tax revenues to cities and counties, which threatens funding for public safety, public health, parks, libraries, street maintenance, housing, and economic development. This practice must end.

(h) The State also must reimburse local governments when any new program or higher level of service is mandated, and when revenues previously allocated to local government are reallocated or redistributed to a state-created fund.

SECTION 3. Competing, regulatory alternative.

A. In the event that another measure ("competing measure") appears on the same ballot as the California Home Rule Amendment which seeks to adopt or impose provisions or requirements that differ in any regard to, or supplement, the provisions or requirements contained in the California Home Rule Amendment, including but not limited to the California Home Rule Amendment's re-enactment of existing laws, the voters hereby expressly declare their intent that if both the competing measure and the California Home Rule Amendment receive a majority of votes cast, and if the California Home Rule Amendment receives a greater number of votes than the competing measure, the California Home Rule Amendment shall prevail in its entirety over the competing measure without regard to whether specific provisions of each measure directly conflict with each other.

B. In the event that both the competing measure and the California Home Rule Amendment receive a majority of votes cast, and the competing measure receives a greater number of votes than the California Home Rule Amendment, the California Home Rule Amendment shall be deemed complementary to the competing measure. To this end, and to the maximum extent permitted by law, the provisions of the California Home Rule Amendment shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with each other on a "provision-by-provision" basis pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978.

SECTION 4. Repeal of Section 15 of Article XI of Constitution.

Section 15 of Article XI of the Constitution is repealed:

~~Section 15. (a) All revenues from taxes imposed pursuant to the Vehicle License Fee Law, or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized~~

~~by law, shall be allocated to counties and cities according to statute.~~

~~(b) This section shall apply to those taxes imposed pursuant to that law on and after July 1 following the approval of this section by the voters.~~

SECTION 5. Addition of Section 16 to Article XI of Constitution.

Section 16 is added to Article XI of the Constitution to read in its entirety as follows:

Section 16. (a) The property tax revenues that are collected by counties pursuant to subdivision (a) of Section 1 of Article XIII A of the Constitution for allocation to counties and cities shall be apportioned by county auditors to each city and each county according to this section, other applicable provisions of the California Home Rule Amendment, and other laws implementing the provisions of the California Home Rule Amendment for the purpose of effecting the transfers and allocations of revenues required pursuant to the California Home Rule Amendment.

(b) For the 2005-06 fiscal year, and each fiscal year thereafter, the amount of property tax revenues allocated to each city and each county shall be determined on the basis of a percentage of the total amount of property tax revenues that are collected by the county pursuant to subdivision (a) of Section 1 of Article XIII A.

(c) Each county auditor shall calculate the percentage of property tax revenues to be allocated to each city and each county pursuant to subdivision (b) by dividing the sum of property tax revenues, including but not limited to those revenues allocated from the Sales and Use Tax Compensation Fund, and vehicle license fee revenues that were allocated to each city and each county in fiscal year 2004-05 by the total amount of property tax revenues that were collected by the county in fiscal year 2004-05 for the applicable tax rate areas.

SECTION 6. Amendment of Section 24 of Article XIII of Constitution.

Section 24 of Article XIII of the Constitution is amended to read in its entirety as follows:

Section 24. (a) The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

(b) Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

(c) *The Legislature may not appropriate, reallocate, redistribute, reduce, reapportion, suspend, or delay revenues from taxes imposed by local governments. Nor shall the Legislature require any local government, without the consent of the affected local government, to remit taxes imposed by local government to the State, a state-created fund, or another local government. For purposes of this subdivision, "taxes imposed by local governments" include, but are not limited to, the ad valorem tax on real property and tangible personal property, local sales and use taxes in excess of the amount of any sales or use tax imposed by the State upon a retailer or consumer, the business license tax, the transient occupancy tax, and the utility users tax.*

(d) Moneys subvened to a local government under Section 25 may be used for state or local purposes.

SECTION 7. Amendment of Section 1 of Article XIII A of Constitution.

Section 1 of Article XIII A of the Constitution is amended to read in its entirety as follows:

Section 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax ~~to~~ shall be collected by the counties and, *as to allocations to counties and cities, shall be apportioned according to law to the districts within the counties the provisions of Section 16 of Article XI and, as to allocations to the other districts within the counties, shall be apportioned according to law.*

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters prior to July 1, 1978.

(2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or (3) of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, "changes in enrollment" shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between

the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(g) For purposes of this section, the transfers or allocations of sales tax revenues and revenues attributable to or derived from the fund established by the Vehicle License Fee Law (or its successor fund or account, or replacement or backfill funds or accounts therefor, howsoever designated), which transfers or allocations are required by the California Home Rule Amendment to the credit of each county's School Assistance Fund for Education, shall be deemed to constitute allocated local proceeds of taxes, and shall not be considered to be State General Fund revenues.

(h) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.

SECTION 10. Amendment of Section 29530 of Government Code.
Section 29530 of the Government Code is amended to read in its entirety as follows:

29530. (a) If the board of supervisors so agrees by contract with the State Board of Equalization, the board of supervisors shall establish a local transportation fund in the county treasury and shall deposit in the fund all revenues transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, which are derived from that portion of the taxes imposed by the county at a rate in excess of 1 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply, at a rate in excess of one-half of 1 percent, pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of that code, less an allocation of the cost of the services of the State Board of Equalization in administering the sales and use tax ordinance related to the rate in excess of 1 percent,

~~and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply, to the rate in excess of one-half of 1 percent, and of the Director of Transportation and the Controller in administering the responsibilities assigned to him or her in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.~~

(b) Any interest or other income earned by investment or otherwise of the local transportation fund shall accrue to and be a part of the fund.

SECTION 11. Addition of Chapter 6.3 to Government Code. Chapter 6.3 (commencing with Section 30020) is added to Division 3 of Title 3 of the Government Code, to read in its entirety as follows:

Chapter 6.3 School Assistance Fund for Education (SAFE)

30020. A School Assistance Fund for Education is hereby created in each county. The county auditor shall allocate moneys in the fund according to this chapter. Moneys in the fund may only be allocated and appropriated for the purposes specified in this chapter.

30021. Each county's School Assistance Fund for Education shall consist of the following moneys:

(a) (1) All revenues that are derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor or replacement fund or account, howsoever designated, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be transferred and allocated by the Controller to each county's School Assistance Fund for Education on the basis of population of such county in relation to the population of the State.

(2) Excluded from this subdivision shall be the portion of those revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor or replacement fund or account, howsoever designated, that are transferred to the Local Revenue Fund pursuant to Revenue and Taxation Code Sections 11000 through 11006, and that are allocated to and restricted for funding the programs specified by Welfare and Institutions Code Sections 17600 through 17600.20. In the event that such transferred revenues are no longer allocated to and

pursuant to Section 16 of Article XI of the Constitution, the amount of property tax revenues equal to the amounts previously advanced and allocated to the county and each city from the county's School Assistance Fund for Education in accordance with subdivision (b) shall be transferred by the county auditor to such fund as repayment of the advance.

(e) In the event that the amount advanced and allocated to local governments in accordance with subdivision (b) exceeds the property tax revenues that are available to be allocated to local governments pursuant to Section 16 of Article XI of the Constitution for any semi-annual property tax cycle, then the county auditor shall deduct the deficit amount as promptly as feasible from the amount advanced and allocated to the county and each city in the next semi-annual property tax cycle.

(f) The county auditor shall allocate such amounts, if any, to cities and the county as may be required pursuant to subdivision (d) of Section 97.68 of the Revenue and Taxation Code.

30023. (a) (1) On August 20 of fiscal year 2005-06, and on the 20th day of each sixth month thereafter, the county auditor shall allocate all moneys from the county's School Assistance Fund for Education to school districts and county offices of education on a per-student basis as set forth in this section.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the county's School Assistance Fund for Education to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code. The county superintendent of schools shall determine the amount to be allocated to each school district on a per-student basis. In no event shall any additional money be allocated from the county's School Assistance Fund for Education to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated on a per-student basis until all funds that would not result in a school

district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the county's School Assistance Fund for Education to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code. The chancellor shall determine the amount to be allocated to each community college district on a per-student basis. In no event shall any additional money be allocated from the county's School Assistance Fund for Education to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the county auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district on a per-student basis until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) If, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this paragraph shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax

revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(b) Notwithstanding any other provision of law, the following provisions shall apply in fiscal year 2005-06 to those school districts and county offices of education within the county that are excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code:

(1) Such school districts and county offices of education shall be entitled to funds allocated pursuant to this section equivalent in amount to the loss, if any, of revenues resulting from the property tax exchanges required by the California Home Rule Amendment.

(2) To the extent that the total amount of funds allocated pursuant to paragraph (1) exceed, on a per-student basis, the funds allocated to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code, then such the total of the excess allocated amount shall be reduced by ten percent for each subsequent fiscal year for a period of ten fiscal years, so that no excess amount is allocated after the tenth subsequent fiscal year.

SECTION 12: Repeal of Section 97.68 of Revenue and Taxation Code.

The provisions of Section 97.68 of the Revenue and Taxation Code in effect on the effective date of the California Home Rule Amendment shall no longer be operative after June 30, 2005, shall be deemed repealed as of such date, and shall be replaced with the provisions set forth in Section 13 below.

~~97.68 Notwithstanding any other provision of law, in allocating ad valorem property tax revenue allocations for each fiscal year during the fiscal adjustment period, all of the following apply:~~

~~(a) (1) The total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the countywide adjustment amount.~~

~~(2) The countywide adjustment amount shall be deposited in a Sales and Use Tax Compensation Fund that shall be established in the treasury of each county.~~

~~(b) For purposes of this section, the following definitions apply:~~

~~(1) "Fiscal adjustment period" means the period beginning with the 2004-05 fiscal year and continuing through the fiscal year in which the Director of Finance notifies the State Board of Equalization pursuant to subdivision (b) of Section 99006 of the Government Code.~~

~~(2) "Countywide adjustment amount" means the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based on the taxable sales in that county in the prior fiscal year as determined by the State Board of Equalization and reported to the director on or before August 15 of each fiscal year during the fiscal adjustment period, to result for each of those fiscal years from the 0.5 percent reduction in local sales and use rate tax authority applied by Section 7203.1.~~

~~(c) For each fiscal year during the fiscal adjustment period, moneys in the Sales and Use Tax Compensation Fund shall be allocated among the county and the cities in the county, and those allocations shall be subsequently adjusted, as follows:~~

~~(1) The Director of Finance shall, on or before September 1 of each fiscal year during the fiscal adjustment period, notify each county auditor of that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and to each city within that county.~~

~~(2) The county auditor shall allocate revenues in the Sales and Use Tax Compensation Fund among the county and cities in the county in the amounts described in paragraph (1). The auditor shall allocate one half of the amount described in paragraph (1) in each January during the fiscal adjustment period and shall allocate the balance of that amount in each May during the fiscal adjustment period.~~

~~(3) After the end of each fiscal year during the fiscal adjustment period, other than a fiscal year subject to~~

subdivision (d), the Director of Finance shall, based on the actual taxable sales for the prior fiscal year, recalculate each amount estimated under paragraph (1) and notify the county auditor of the recalculated amount.

(4) If the amount recalculated under paragraph (3) for the county or any city in the county is greater than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.

(5) If the amount recalculated under paragraph (3) for the county or any city in the county is less than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county Educational Revenue Augmentation Fund.

(6) If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the transfers required by paragraph (4), the county auditor shall transfer from the county Educational Revenue Augmentation Fund an amount sufficient to make the full amount of these transfers.

(d) (1) If Section 7203.1 ceases to be operative during any calendar quarter that is not the calendar quarter in which the fiscal year begins, the excess amount, as defined in paragraph (2), of the county and each city in the county shall be reallocated from each of those local agencies to the Educational Revenue Augmentation Fund.

(2) For purposes of this subdivision, "excess amount" means the product of both of the following:

~~(A) The total amount of ad valorem property tax revenue allocated to that local agency pursuant to paragraph (2) of subdivision (c).~~

~~(B) That percentage of the fiscal year in which Section 7203.1 is not operative.~~

~~(c) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.~~

~~(f) This section may not be construed to do any of the following:~~

~~(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, had this section not been enacted. The allocation made pursuant to subdivisions (a) and (c) shall be adjusted to comply with this paragraph.~~

~~(2) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.~~

~~(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined or allocated in a county.~~

SECTION 13. Addition of Section 97.68 of Revenue and Taxation Code.
Operative on and after July 1, 2005, and for fiscal year 2005-06 and each fiscal year thereafter, Section 97.68 of the Revenue and Taxation Code is added to read in its entirety as follows:

97.68 (a) Notwithstanding any other provision of this chapter, and in accordance with Section 16 of Article XI of the Constitution and other applicable provisions of law implementing the California Home Rule Amendment, revenues of ad valorem property taxes collected pursuant to subdivision (a) of Section 1 of Article XIII A of the Constitution and allocated to counties and to

cities shall be apportioned according to this section for the 2005-06 fiscal year and each fiscal year thereafter.

(b) For each applicable tax rate area, each city shall be allocated a certain percentage of property tax revenues that are collected by the county in which the city is located.

(1) The percentage of property tax revenues allocated to each city shall be calculated on the basis of the amounts of property tax revenues, including but not limited to those revenues allocated from the Sales and Use Tax Compensation Fund, and vehicle license fee revenues that were allocated to the city in fiscal year 2004-05 divided by the total amount of property tax revenues that were collected in fiscal year 2004-05 by the county in which the city is located.

(2) For the purposes of this subdivision, the amount of vehicle license fee revenues deemed to have been allocated to the city in fiscal year 2004-05 shall be calculated on the basis of a fee equal to two percent of the market value of the vehicle as determined by the Department of Motor Vehicles.

(c) For each applicable tax rate area, each county shall be allocated a certain percentage of property tax revenues that are collected by the county.

(1) The percentage of property tax revenues allocated to each county shall be calculated on the basis of property tax revenues, including but not limited to those revenues allocated from the Sales and Use Tax Compensation Fund, and vehicle license fee revenues that were allocated to the county in fiscal year 2004-05 divided by the total amount of property tax revenues that were collected in fiscal year 2004-05 by the county.

(2) Excluded from the calculation in paragraph (1) shall be revenues derived from vehicle license fees that are allocated to counties for the programs and services that are required pursuant to Revenue and Taxation Code Sections 11000 through 11006 for funding the programs specified by Welfare and Institutions Code Sections 17600 through 17600.20.

(3) For the purposes of this subdivision, the amount of vehicle license fee revenues deemed to have been allocated to the county in fiscal year 2004-05 shall be calculated on the basis of a

fee equal to two percent of the market value of the vehicle as determined by the Department of Motor Vehicles.

(d) Notwithstanding any other provision of law, the total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the amount required to make the allocations specified in subdivisions (b) and (c). In the event that the county's Educational Revenue Augmentation Fund is not sufficient in amount to effect the required reduction, then the deficit amount shall be reduced from the allocated local proceeds of taxes available in the county for allocation to school districts and community college districts. In the event that the county's Educational Revenue Augmentation Fund and allocated local proceeds of taxes available in the county for allocation to school districts and community college districts are not sufficient in amount to effect the required reduction, then the deficit amount shall be allocated from the county's School Assistance Fund for Education established pursuant to Chapter 6.3 (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

(e) For the fiscal year 2006-07, and each fiscal year thereafter, ad valorem property tax revenues made pursuant to Section 96.1 shall fully incorporate the allocation adjustments required by this section.

(f) All provisions of Chapter 6 (commencing with Section 95), to the extent not inconsistent with the provisions of this section, shall be applicable to the allocation of ad valorem property tax revenues for the fiscal year 2006-07, and each fiscal year thereafter.

(g) Notwithstanding the repeal of Section 15 of Article XI of the Constitution and the addition of Section 36 to Article XIII of the Constitution pursuant to the California Home Rule Amendment, the amount, if any, that is allocated to each city and each county from the fund established by the Vehicle License Fee Law, or its successor or replacement fund, howsoever designated, shall be deducted from the property tax revenues otherwise required to be allocated to each city and each county pursuant to subdivisions (b) and (c).

(h) Each city and each county, within a three-year period commencing on January 1, 2005, shall have the opportunity to submit a one-time petition to the county auditor to implement a

recalculation and adjustment to the percentage of property tax revenues allocated to such city or county pursuant to subdivisions (b) and (c) based on increased sales tax revenues that, but for the California Home Rule Amendment, would have been allocated to the city or the county by reason of one or more approved development projects for which development applications were accepted as complete on or before January 1, 2005. Upon receipt of such a petition, the county auditor, upon consultation with the State Board of Equalization as appropriate, shall determine the appropriate recalculation adjustment.

(i) Nothing in this section shall do any of the following:

(1) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.

(2) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined in a county.

(3) Interfere with or otherwise impair the realignment of funds and financial responsibility for programs and services that is required pursuant to Revenue and Taxation Code Sections 11000 through 11006 for funding the programs specified by Welfare and Institutions Code Sections 17600 through 17600.20.

(j) Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to be modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced with property tax revenues as otherwise provided by law.

SECTION 14. Addition of Section 6051.7 to Revenue and Taxation Code.

Section 6051.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.7 (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-half of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SECTION 15. Addition of Section 6051.8 to Revenue and Taxation Code.
Section 6051.8 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.8. There are exempted from the taxes imposed by Section 6051.7 the gross receipts derived from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

SECTION 16. Addition of Section 6201.7 to Revenue and Taxation Code.
Section 6201.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.7. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-half of 1 percent of the sales price of the property.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SECTION 17. Addition of Section 6201.8 to Revenue and Taxation Code.
Section 6201.8 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.8. There are exempted from the taxes imposed by Section 6201.7 the storage, use, or other consumption in this state of tangible personal property, other than fuel or petroleum products, by operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

SECTION 18. Addition of Section 7101.4 to Revenue and Taxation Code.
Section 7101.4 is added to the Revenue and Taxation Code to read in its entirety as follows:

7101.4. Notwithstanding Section 7101, all revenues, less refunds, derived from the taxes imposed to Sections 6051.7 and 6201.7 shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has

been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

SECTION 19: Amendment of Section 7202 of Revenue and Taxation Code. Section 7202 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7202. The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(a) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at the rate of 1 1/4 percent, *and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent*, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(b) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(c) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part, shall automatically become a part of the sales tax ordinance of the county.

(d) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the county. Any such contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(e) A provision that the ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

(f) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(g) A provision that there is exempted from the sales tax ~~80 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply,~~ 67 percent, of the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(h) A provision that any person subject to a sales and use tax under the county ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use tax due to any city in the county; provided that the city sales and use tax is levied under an ordinance including provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the city *on and after the end of the revenue exchange period* at the rate of *one-half of 1 percent* or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the city and a use tax *on and after the revenue exchange period* of *one-half of 1 percent* or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the city.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the city as the taxing agency shall be substituted for that of the state (but the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the city.

(4) A provision that the city shall contract prior to the effective date of the city sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city which shall continue in effect so long as the county within which the city is located has an operative sales and use tax ordinance enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property

under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(i) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SECTION 20. Amendment of Section 7203 of Revenue and Taxation Code. Section 7203 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203. (a) The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county.

(b) That tax shall be at the rate of $11/4$ percent, and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent, of the sales price of the property whose storage, use or other consumption is subject to the tax and shall include:

(a 1) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001), other than Section 6201 insofar as those provisions relate to the use tax, except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word

"state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(b 2) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(c 3) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(d 4) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(e 5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from ~~80 percent of the use tax, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply, exempt from~~ 67 percent of the use tax.

(c) *For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.*

SECTION 21. Amendment of Section 7203.1 of Revenue and Taxation Code. Section 7203.1 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203.1. (a) Notwithstanding any other provision of law, during the revenue exchange period ~~only~~, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 is suspended, and the tax rate to be applied instead during that period under any ordinance as so adopted is the applicable of the following:

(1) In the case of a county, three-quarters of 1 percent.

(2) In the case of a city, one-half of 1 percent.

(b) Notwithstanding any other provision of law, on and after the end of the revenue exchange period, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 shall be limited to the following:

(1) In the case of a county, a tax rate not to exceed three-quarters of 1 percent.

(2) In the case of a city, a tax rate not to exceed one-half of 1 percent.

~~(b)~~ (c) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

~~(e)~~ (d) Subdivisions (a) and (b) ~~is-a~~ are self-executing provisions that operates without regard to any decision or act on the part of any local government. A change in a local general tax rate resulting from ~~either~~ the rate limitations applied by subdivisions (a) ~~or the end of the revenue exchange period and (b)~~ is not subject to voter approval under either statute or Article XIII C of the California Constitution.

(e) Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to be modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced with property tax revenues as otherwise provided by law.

SECTION 22. **Addition of Section 16 to Article XI of Constitution, amendment of Section 29530 of Government Code, addition of Section 30021 of Government Code, repeal and addition of Section 97.68 of Revenue and Taxation Code, addition of sections 6051.7, 6051.9, 6051.95, 6201.7, 6201.9, 6201.95, and 7101.4 to the Revenue and Taxation Code, and amendment of Sections 7202, 7203, and 7203.1 of Revenue and Taxation Code in event Assembly Bill 9, enacted as Chapter 2 of the 2003-04 Fifth Extraordinary Session, becomes operative.** In accordance with Assembly Bill 9, enacted as Chapter 2 of the 2003-04 Fifth Extraordinary Session, and filed with the Secretary of State on December 12, 2003, certain additions and amendments to portions of the Government Code and the Revenue and Taxation Code are to become operative upon the occurrence of the following: (i) submittal to and approval by the voters of Assembly Constitutional Amendment 5 of the 2003-04 Fifth Extraordinary Session at the March 2, 2004 statewide primary election, and (ii) adoption by the voters of the Economic Recovery Bond Act at the March 2, 2004 statewide primary election. Some of the provisions of Assembly Bill 9, if operative, would be inconsistent with some of the provisions of the California Home Rule Amendment. The voters expressly declare their intent that in the event that Sections 1 to 4.20, inclusive, of Assembly Bill 9 become operative, and only in such event, the following constitutional and statutory modifications be adopted in lieu of the modifications otherwise set forth above.

A. Addition of Section 16 to Article XI of Constitution. In lieu of the provisions of Section 5 hereof set forth above, Section 16 is added to Article XI of the Constitution to read in its entirety as follows:

Section 16. (a) The property tax revenues that are collected by counties pursuant to subdivision (a) of Section 1 of Article XIII A of the Constitution for allocation to counties and cities shall be apportioned by county auditors to each city and each county according to this section, other applicable provisions of the California Home Rule Amendment, and other laws implementing the provisions of the California Home Rule Amendment for the purpose of effecting the transfers and allocations of revenues required pursuant to the California Home Rule Amendment.

(b) *For the 2005-06 fiscal year, and each fiscal year thereafter, the amount of property tax revenues allocated to each city and each county shall be determined on the basis of a percentage of the total amount of property tax revenues that are collected by the county pursuant to subdivision (a) of Section 1 of Article XIII A.*

(c) *Each county auditor shall calculate the percentage of property tax revenues to be allocated to each city and each county pursuant to subdivision (b) by dividing the sum of property tax revenues, including but not limited to those revenues allocated from the Sales and Use Tax Compensation Fund, the portion of sales tax revenues imposed by the State upon a retailer or consumer pursuant to the terms of the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of the Revenue and Taxation Code) derived at the rate of one-quarter of one percent, and vehicle license fee revenues that were allocated to each city and each county in fiscal year 2004-05 by the total amount of property tax revenues that were collected by the county in fiscal year 2004-05 for the applicable tax rate areas.*

B. Amendment of Section 29530 of Government Code. In lieu of the provisions of Section 10 hereof set forth above, Section 29530 of the Government Code is amended to read in its entirety as follows:

29530. (a) If the board of supervisors so agrees by contract with the State Board of Equalization, the board of supervisors shall establish a local transportation fund in the county treasury and shall deposit in the fund all revenues transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, which are derived from that portion of the taxes imposed by the county at a rate in excess of 1 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply, at a rate in excess of three quarters one-half of 1 percent, pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of that code, less an allocation of the cost of the services of the State Board of Equalization in administering the sales and use tax ordinance related to the rate in excess of 1 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply, to the rate in excess of three quarters one-half of 1 percent, and of the

Director of Transportation and the Controller in administering the responsibilities assigned to him or her in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.

(b) Any interest or other income earned by investment or otherwise of the local transportation fund shall accrue to and be a part of the fund.

C. Addition of Section 30021 of Government Code. In lieu of the provisions of Section 11 hereof adding Section 30021 to the Government Code as set forth above, Section 30021 of the Government Code is added to read in its entirety as follows:

30021. Each county's School Assistance Fund for Education shall consist of the following moneys:

(a) (1) All revenues that are derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor or replacement fund or account, howsoever designated, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be transferred and allocated by the Controller to each county's School Assistance Fund for Education on the basis of population of such county in relation to the population of the State.

(2) Excluded from this subdivision shall be the portion of those revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor or replacement fund or account, howsoever designated, that are transferred to the Local Revenue Fund pursuant to Revenue and Taxation Code Sections 11000 through 11006, and that are allocated to and restricted for funding the programs specified by Welfare and Institutions Code Sections 17600 through 17600.20. In the event that such transferred revenues are no longer allocated to and restricted for funding those specified programs, then such revenues shall be transferred and allocated by the Controller to each county's School Assistance Fund for Education on the basis of population of such county in relation to the population of the State.

(3) This subdivision shall apply only to those revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor or replacement fund or account, howsoever designated, for taxes imposed on and after July 1, 2005.

(b) All revenues, less refunds if any, derived from the taxes imposed pursuant to Sections 6051.7, 6051.9, 6201.7, and 6201.9 of the Revenue and Taxation Code.

D. Repeal of Section 97.68 of Revenue and Taxation Code. In lieu of the provisions of Section 12 hereof set forth above, the provisions of Section 97.68 of the Revenue and Taxation Code in effect on the effective date of the California Home Rule Amendment shall no longer be operative after June 30, 2005, shall be deemed repealed as of such date, and shall be replaced with the provisions set forth in subdivision E below.

~~97.68. Notwithstanding any other provision of law, in allocating ad valorem property tax revenue allocations for each fiscal year during the fiscal adjustment period, all of the following apply:~~

~~(a) (1) The total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the countywide adjustment amount.~~

~~(2) The countywide adjustment amount shall be deposited in a Sales and Use Tax Compensation Fund that shall be established in the treasury of each county.~~

~~(b) For purposes of this section, the following definitions apply:~~

~~(1) "Fiscal adjustment period" means the period beginning with the 2004-05 fiscal year and continuing through the fiscal year in which the Director of Finance notifies the State Board of Equalization pursuant to subdivision (b) of Section 99006 of the Government Code.~~

~~(2) "Countywide adjustment amount" means the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based on the taxable sales in that county in the prior fiscal year as determined by the State Board of Equalization and reported to the director on or before August 15 of each fiscal year during the fiscal adjustment period, to result for each of those fiscal years from the 0.25 percent reduction in local sales and use rate tax authority applied by Section 7203.1.~~

~~(c) For each fiscal year during the fiscal adjustment period, moneys in the Sales and Use Tax Compensation Fund shall be allocated among the county and the cities in the county, and those allocations shall be subsequently adjusted, as follows:~~

~~(1) The Director of Finance shall, on or before September 1 of each fiscal year during the fiscal adjustment period, notify each county auditor of that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and to each city within that county.~~

~~(2) The county auditor shall allocate revenues in the Sales and Use Tax Compensation Fund among the county and cities in the county in the amounts described in paragraph (1). The auditor shall allocate one half of the amount described in paragraph (1) in each January during the fiscal adjustment period and shall allocate the balance of that amount in each May during the fiscal adjustment period.~~

~~(3) After the end of each fiscal year during the fiscal adjustment period, other than a fiscal year subject to subdivision (d), the Director of Finance shall, based on the actual taxable sales for the prior fiscal year, recalculate each amount estimated under paragraph (1) and notify the county auditor of the recalculated amount.~~

~~(4) If the amount recalculated under paragraph (3) for the county or any city in the county is greater than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.~~

~~(5) If the amount recalculated under paragraph (3) for the county or any city in the county is less than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise~~

~~allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county Educational Revenue Augmentation Fund.~~

~~(6) If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the transfers required by paragraph (4), the county auditor shall transfer from the county Educational Revenue Augmentation Fund an amount sufficient to make the full amount of these transfers.~~

~~(d) (1) If Section 7203.1 ceases to be operative during any calendar quarter that is not the calendar quarter in which the fiscal year begins, the excess amount, as defined in paragraph (2), of the county and each city in the county shall be reallocated from each of those local agencies to the Educational Revenue Augmentation Fund.~~

~~(2) For purposes of this subdivision, "excess amount" means the product of both of the following:~~

~~(A) The total amount of ad valorem property tax revenue allocated to that local agency pursuant to paragraph (2) of subdivision (c).~~

~~(B) That percentage of the fiscal year in which Section 7203.1 is not operative.~~

~~(e) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.~~

~~(f) This section may not be construed to do any of the following:~~

~~(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, had this section not been enacted. The~~

~~allocation made pursuant to subdivisions (a) and (c) shall be adjusted to comply with this paragraph.~~

~~(2) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.~~

~~(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined or allocated in a county.~~

~~(g) Existing tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies shall be deemed to be temporarily modified to account for the reduced sales and use tax revenues, resulting from the temporary reduction in the local sales and use tax rate, with those reduced revenues to be replaced in kind by property tax revenue from a Sales and Use Tax Compensation Fund or an Educational Revenue Augmentation Fund, on a temporary basis, as provided by this section.~~

E. Addition of Section 97.68 of Revenue and Taxation Code. In lieu of the provisions of Section 13 hereof adding Section 97.68 to the Revenue and Taxation Code as set forth above, operative on and after July 1, 2005, and for fiscal year 2005-06 and each fiscal year thereafter, Section 97.68 of the Revenue and Taxation Code is added to read in its entirety as follows:

97.68 (a) Notwithstanding any other provision of this chapter, and in accordance with Section 16 of Article XI of the Constitution and other applicable provisions of law implementing the California Home Rule Amendment, revenues of ad valorem property taxes collected pursuant to subdivision (a) of Section 1 of Article XIII A of the Constitution and allocated to counties and to cities shall be apportioned according to this section for the 2005-06 fiscal year and each fiscal year thereafter.

(b) For each applicable tax rate area, each city shall be allocated a certain percentage of property tax revenues that are collected by the county in which the city is located.

(1) The percentage of property tax revenues allocated to each city shall be calculated on the basis of the amounts of property tax revenues, including but not limited to those revenues allocated

from the Sales and Use Tax Compensation Fund, the portion of sales tax revenues imposed by the State upon a retailer or consumer pursuant to the terms of the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of the Revenue and Taxation Code) derived at the rate of one-quarter of one percent, and vehicle license fee revenues that were allocated to the city in fiscal year 2004-05 divided by the total amount of property tax revenues that were collected in fiscal year 2004-05 by the county in which the city is located.

(2) For the purposes of this subdivision, the amount of vehicle license fee revenues deemed to have been allocated to the city in fiscal year 2004-05 shall be calculated on the basis of a fee equal to two percent of the market value of the vehicle as determined by the Department of Motor Vehicles.

(c) For each applicable tax rate area, each county shall be allocated a certain percentage of property tax revenues that are collected by the county.

(1) The percentage of property tax revenues allocated to each county shall be calculated on the basis of the amounts of property tax revenues, including but not limited to those revenues allocated from the Sales and Use Tax Compensation Fund, the portion of sales tax revenues imposed by the State upon a retailer or consumer pursuant to the terms of the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of the Revenue and Taxation Code) derived at the rate of one-quarter of one percent, and vehicle license fee revenues that were allocated to the county in fiscal year 2004-05 divided by the total amount of property tax revenues that were collected in fiscal year 2004-05 by the county.

(2) Excluded from the calculation in paragraph (1) shall be revenues derived from vehicle license fees that are allocated to counties for the programs and services that are required pursuant to Revenue and Taxation Code Sections 11000 through 11006 for funding the programs specified by Welfare and Institutions Code Sections 17600 through 17600.20.

(3) For the purposes of this subdivision, the amount of vehicle license fee revenues deemed to have been allocated to the county in fiscal year 2004-05 shall be calculated on the basis of a fee equal to two percent of the market value of the vehicle as determined by the Department of Motor Vehicles.

(d) Notwithstanding any other provision of law, the total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the amount required to make the allocations specified in subdivisions (b) and (c). In the event that the county's Educational Revenue Augmentation Fund is not sufficient in amount to effect the required reduction, then the deficit amount shall be reduced from the allocated local proceeds of taxes available in the county for allocation to school districts and community college districts. In the event that the county's Educational Revenue Augmentation Fund and allocated local proceeds of taxes available in the county for allocation to school districts and community college districts are not sufficient in amount to effect the required reduction, then the deficit amount shall be allocated from the county's School Assistance Fund for Education established pursuant to Chapter 6.3 (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

(e) For the fiscal year 2006-07, and each fiscal year thereafter, ad valorem property tax revenues made pursuant to Section 96.1 shall fully incorporate the allocation adjustments required by this section.

(f) All provisions of Chapter 6 (commencing with Section 95), to the extent not inconsistent with the provisions of this section, shall be applicable to the allocation of ad valorem property tax revenues for the fiscal year 2006-07, and each fiscal year thereafter.

(g) Notwithstanding the repeal of Section 15 of Article XI of the Constitution and the addition of Section 36 to Article XIII of the Constitution pursuant to the California Home Rule Amendment, the amount, if any, that is allocated to each city and each county from the fund established by the Vehicle License Fee Law, or its successor or replacement fund, howsoever designated, shall be deducted from the property tax revenues otherwise required to be allocated to each city and each county pursuant to subdivisions (b) and (c).

(h) Each city and each county, within a three-year period commencing on January 1, 2005, shall have the opportunity to submit a one-time petition to the county auditor to implement a recalculation and adjustment to the percentage of property tax revenues allocated to such city or county pursuant to subdivisions (b) and (c) based on increased sales tax revenues that, but for the

California Home Rule Amendment, would have been allocated to the city or the county by reason of one or more approved development projects for which development applications were accepted as complete on or before January 1, 2005. Upon receipt of such a petition, the county auditor, upon consultation with the State Board of Equalization as appropriate, shall determine the appropriate recalculation adjustment.

(i) Nothing in this section shall do any of the following:

(1) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.

(2) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined in a county.

(3) Interfere with or otherwise impair the realignment of funds and financial responsibility for programs and services that is required pursuant to Revenue and Taxation Code Sections 11000 through 11006 for funding the programs specified by Welfare and Institutions Code Sections 17600 through 17600.20.

(j) Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to be modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced with property tax revenues as otherwise provided by law.

F. Addition of Section 6051.7 to Revenue and Taxation Code. In lieu of the provisions of Section 14 hereof adding Section 6051.7 to the Revenue and Taxation Code as set forth above, Section 6051.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.7 (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund

for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

G. Addition of Section 6051.9 to Revenue and Taxation Code. Section 6051.8 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.9 (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on July 1, 2005.

H. Addition of Section 6051.95 to Revenue and Taxation Code. Section 6051.10 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.95. *There are exempted from the taxes imposed by Section 6051.9 the gross receipts derived from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.*

I. Addition of Section 6201.7 to Revenue and Taxation Code. In lieu of the provisions of Section 15 hereof adding Section 6201.7 to the Revenue and Taxation Code as set forth above, Section 6201.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.7. (a) *In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-quarter of 1 percent of the sales price of the property.*

(b) *All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.*

(c) *Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.*

(d) *This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.*

J. Addition of Section 6201.9 to Revenue and Taxation Code. Section 6201.9 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.9. (a) *In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-quarter of 1 percent of the sales price of the property.*

(b) *All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.*

(c) *Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.*

(d) *This section shall become operative on July 1, 2005.*

K. Addition of Section 6201.95 to Revenue and Taxation Code. Section 6201.10 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.95. *There are exempted from the taxes imposed by Section 6201.9 the storage, use, or other consumption in this state of tangible personal property, other than fuel or petroleum products, by operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.*

L. Addition of Section 7101.4 to Revenue and Taxation Code. In lieu of the provisions of Section 18 hereof adding Section 7101.4 to the Revenue and Taxation Code as set forth above, Section 7101.4 is added to the Revenue and Taxation Code to read in its entirety as follows:

7101.4. *Notwithstanding Section 7101, all revenues, less refunds, derived from the taxes imposed to Sections 6051.7,*

6051.9, 6201.7, and 6201.9 shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Chapter 6.3. (commencing with Section 30020) of Division 3 of Title 3 of the Government Code.

M. Amendment of Section 7202 of Revenue and Taxation Code. In lieu of the provisions of Section 19 hereof amending Section 7202 of the Revenue and Taxation Code as set forth above, Section 7202 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7202. The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(a) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at the rate of 1 1/4 percent, *and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent*, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(b) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(c) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part, shall automatically become a part of the sales tax ordinance of the county.

(d) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and

use tax ordinance of the county. Any such contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(e) A provision that the ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

(f) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(g) A provision that there is exempted from the sales tax ~~80 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply, 75~~ 67 percent, of the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(h) A provision that any person subject to a sales and use tax under the county ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use tax due to any city in the county; provided that the city sales and use tax is levied under an ordinance including provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the city *on and after the end of the revenue exchange period* at the rate of *one-half* of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal

property sold by that person at retail in the city and a use tax *on and after the revenue exchange period of one-half of 1 percent* or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the city.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the city as the taxing agency shall be substituted for that of the state (but the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the city.

(4) A provision that the city shall contract prior to the effective date of the city sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city which shall continue in effect so long as the county within which the city is located has an operative sales and use tax ordinance enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(i) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

N. Amendment of Section 7203 of Revenue and Taxation Code. In lieu of the provisions of Section 20 hereof amending Section 7203 of the Revenue and Taxation Code as set forth above, Section 7203 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203. (a) The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county.

(b) That tax shall be at the rate of 11/4 percent, and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent, of the sales price of the property whose storage, use or other consumption is subject to the tax and shall include:

(a 1) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001), other than Section 6201 insofar as those provisions relate to the use tax, except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(b 2) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(c 3) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(d 4) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(e 5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from ~~80 percent of the use tax, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply, exempt from~~ 75 67 percent of the use tax.

(c) *For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days*

following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

O. Amendment of Section 7203.1 of Revenue and Taxation Code. In lieu of the provisions of Section 21 hereof amending Section 7203.1 of the Revenue and Taxation Code as set forth above, Section 7203.1 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203.1. (a) Notwithstanding any other provision of law, during the revenue exchange period ~~only~~, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 is suspended, and the tax rate to be applied instead during that period under any ordinance as so adopted is the applicable of the following:

(1) In the case of a county, *three-quarters of 1 percent.*

(2) In the case of a city, ~~three-quarters~~ *one-half of 1 percent.*

(b) Notwithstanding any other provision of law, on and after the end of the revenue exchange period, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 shall be limited to the following:

(1) In the case of a county, a tax rate not to exceed three-quarters of 1 percent.

(2) In the case of a city, a tax rate not to exceed one-half of 1 percent.

~~(b)~~ (c) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

~~(e)~~ (d) Subdivisions (a) and (b) ~~is-a~~ are self-executing provisions that operates without regard to any decision or act on the part of any local government. A change in a local general tax rate resulting from ~~either~~ the rate limitations

applied by subdivisions (a) ~~or the end of the revenue exchange period~~ and (b) is not subject to voter approval under either statute or Article XIII C of the California Constitution.

(d e) Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to be ~~temporarily~~ modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced *with property tax revenues* as ~~may~~ otherwise be provided by law.

SECTION 23. Effective date. The California Home Rule Amendment and all provisions thereof, unless otherwise expressly herein provided, shall take effect and become operative on the date the Secretary of State certifies the results of the election at which the California Home Rule Amendment was approved.

SECTION 24. Further implementation. The Legislature shall pass all laws necessary to carry out the provisions of the California Home Rule Amendment.

SECTION 25. Amendment. The California Home Rule Amendment may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All amendments to the California Home Rule Amendment shall be to further the California Home Rule Amendment and must be consistent with its purposes.

SECTION 26. Liberal construction. The provisions of the California Home Rule Amendment shall be liberally construed to effectuate its purposes of providing an adequate, reliable, and guaranteed source of funding to cities and counties to finance public safety, public health, parks, libraries, street maintenance, housing, economic development, and other vital community services.

SECTION 27. Severability. If any provision of the California Home Rule Amendment, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of the California Home Rule Amendment are severable.

THE LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT

SECTION ONE. Short Title.

These amendments to the California Constitution shall be known and may be cited as the LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT.

SECTION TWO. Findings and Purposes

(a) The People of the State of California find that restoring local control over local tax dollars is vital to insure that local tax dollars are used to provide critical local services including, but not limited to, police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance. Reliable funding for these services is essential for the security, well-being and quality of life of all Californians.

(b) For many years, the Legislature has taken away local tax dollars used by local governments so that the State could control those local tax dollars. In fact, the Legislature has been taking away billions of local tax dollars each year, forcing local governments to either raise local fees or taxes to maintain services, or cut back on critically needed local services.

(c) The Legislature's diversion of local tax dollars from local governments harms local governments' ability to provide such specific services as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(d) In recognition of the harm caused by diversion of local tax dollars and the importance placed on voter control of major decisions concerning government finance, and consistent with existing provisions of the California Constitution that give the people the right to vote on fiscal changes, the People of the State of California want the right to vote upon actions by the State government that take local tax dollars from local governments.

(e) The Local Taxpayers and Public Safety Protection Act is designed to insure that the People of the State of California shall have the right to approve or reject the actions of state government to take away local revenues that fund vitally needed local services.

(f) The Local Taxpayers and Public Safety Protection Act strengthens the requirement that if the State mandates local governments to implement new or expanded programs, then the State shall reimburse local governments for the cost of those programs.

(g) The Local Taxpayers and Public Safety Protection Act does not amend or modify the School Funding Initiative, Proposition 98 (Article XVI, section 8 of the California Constitution).

(h) Therefore, the People declare that the purposes of this Act are to:

- (1) require voter approval before the Legislature removes local tax dollars from the control of Local Government, as described in this measure;
- (2) insure that local tax dollars are dedicated to local governments to fund local public services;
- (3) insure that the Legislature reimburses local governments when the State mandates local governments to assume more financial responsibility for new or existing programs; and
- (4) prohibit the Legislature from deferring or delaying annual reimbursement to local governments for state-mandated programs.

SECTION THREE. Article XIII E is hereby added to the California Constitution to read as follows:

ARTICLE XIII E Local Taxpayers and Public Safety Protection Act

Section 1. State-wide Voter Approval Required.

(a) Approval by a majority vote of the electorate, as provided for in this section, shall be required before any act of the Legislature takes effect that removes the following funding sources, or portions thereof, from the control of any Local Government as follows:

- (1) Reduces, or suspends or delays the receipt of, any Local Government's proportionate share of the Local Property Tax when the Legislature exercises its power to apportion the Local Property Tax; or requires any Local Government to remit Local Property Taxes to the State, a state-created fund, or, without the consent of the affected Local Governments, to another Local Government;
- (2) Reduces, or delays or suspends the receipt of, the Local Government Base Year Fund to any Local Government, without appropriating funds to offset the reduction, delay or suspension in an equal amount;
- (3) Restricts the authority to impose, or changes the method of distributing, the Local Sales Tax;
- (4) Reduces, or suspends or delays the receipt of, the 2003 Local Government Payment Deferral; or
- (5) Fails to reinstate the suspended Bradley-Burns Uniform Sales Tax Rate in accordance with Section 97.68 of the Revenue and Taxation Code added by Chapter 162 of 2003 Statutes; or reduces any Local Government's allocation of the Property Tax required by Section 97.68 while the Sales Tax Rate is suspended.

(b) Prior to its submission to the electorate, an act subject to voter approval under this section must be approved by the same vote of the Legislature as is required to enact a budget bill and shall not take effect until approved by a majority of those voting on the measure at the next statewide election in accordance with subdivision (c).

(c) When an election is required by this section, the Secretary of State shall present the following question to the electorate: "Shall that action taken by the Legislature in [Chapter___ of the Statutes of ___], which affects local revenues, be approved?"

Section 2. Definitions

(a) "Local Government" means any city, county, city and county, or special district.

(b) "Local Government Base Year Fund" means the amount of revenue appropriated in the 2002-2003 fiscal year in accordance with Chapters 1 through 5, commencing with section 10701 of Part 5 of Division 2 of the Revenue and Taxation Code, adjusted annually based upon the change in assessed valuation of vehicles that are subject to those provisions of law. In the event that the fees imposed by those provisions of law are repealed, then the Fund shall be adjusted annually on July 1 by an amount not less than the percentage change in per capita personal income and the change in population, as calculated pursuant to Article XIII B.

(c) "2003 Local Government Payment Deferral" means the amount of revenues required to be transferred to Local Government from the General Fund specified in subparagraph D of paragraph 3 of subdivision (a) of section 10754 of the Revenue and Taxation Code in effect on August 11, 2003.

(d) "Local Property Tax" means any Local Government's January 1, 2003 proportionate share of ad valorem taxes on real property and tangible personal property apportioned pursuant to the Legislature's exercise of its power to apportion property taxes as specified in Article XIII A, section 1. "Local Property Tax" also means any Local Government's allocation of the ad valorem tax on real property and tangible personal property pursuant to Article XVI, section 16.

(e) "Local Sales Tax" means any sales and use tax imposed by any city, county, or city and county pursuant to the terms of the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of Division 2 of the Revenue and Taxation Code) in accordance with the law in effect on January 1, 2003.

(f) "Special District" means an agency of the State, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographic boundaries, including redevelopment agencies, but not including school districts, community college districts, or county offices of education.

(g) "State" means the State of California.

Section 3. Interim Measures

(a) The operation and effect of any statute, or portion thereof, enacted between November 1, 2003 and the effective date of this Act, that would have required voter approval pursuant to Section 1 if enacted on or after the effective date of this Act (the "Interim Statute"), shall be suspended on that date and shall have no further force and effect until the date the Interim Statute is approved by the voters at the first statewide election following the effective date of this Act in the manner specified in Section 1. If the Interim Statute is not approved by the voters, it shall have no further force and effect.

(b) If the Interim Statute is approved by the voters, it shall nonetheless have no further force and effect during the period of suspension; provided, however, that the statute shall have force and effect during the period of suspension if the Interim Statute or separate act of the Legislature appropriates funds to affected local governments in an amount which is not less than the revenues affected by the Interim Statute.

(c) A statute or other measure that is enacted by the Legislature and approved by the voters between November 1, 2003 and the effective date of this Act is not an Interim Statute within the meaning of this section.

SECTION FOUR. Article XIIIB Section Six (6) is hereby amended as follows:

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall annually provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- ~~(a)~~ (1) Legislative mandates requested by the local agency affected;
- ~~(b)~~ (2) Legislation defining a new crime or changing an existing definition of a crime; or
- ~~(c)~~ (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) The annual subvention of funds required by this section shall be transmitted to the local government within 180 days of the effective date of the statute or regulation or order by a State officer or agency that mandates a new program or higher level of service, or within 180 days of a final adjudication that a subvention of funds is required pursuant to this section. For purposes of this section, the Legislature or any State agency or officer mandates a new program or higher level of service when it creates a new program, requires services not previously required to be provided, increases the frequency or duration of required services, increases the number of persons eligible for services, or transfers to local government complete or partial financial responsibility for a program for which the State previously had complete or partial financial responsibility.

(c) If during the fiscal year in which a claim for reimbursement is filed for a subvention of funds, the Legislature does not appropriate a subvention of funds that provides full reimbursement as required by subdivision (a), or does not appropriate a subvention of funds that provides full reimbursement as part of the state budget act in the fiscal year immediately following the filing of that claim for reimbursement, then a local government may elect one of the following options:

(1) Continue to perform the mandate. The local government shall receive reimbursement for its costs to perform the mandate through a subsequent appropriation and subvention of funds; or

(2) Suspend performance of the mandate during all or a portion of the fiscal year in which the election permitted by this subdivision is made. The local government may continue to suspend performance of the mandate during all or a portion of subsequent fiscal years until the fiscal year in which the Legislature appropriates the subvention of funds to provide full reimbursement as required by subdivision (a). A local government shall receive reimbursement for its costs for that portion of the fiscal year during which it performed the mandate through a subsequent appropriation and subvention of funds.

The terms of this subdivision do not apply to, and a local government may not make the election provided for in this subdivision, for a mandate that either requires a local government to provide or modify any form of protection, right, benefit or employment status for any local government employee or retiree, or provides or modifies any procedural or substantive right for any local government employee or employee organization, arising from, affecting, or directly relating to future, current, or past local government employment.

(d) For purposes of this section, "mandate" means a statute, or action or order of any state agency, which has been determined by the Legislature, any court, or the Commission on State Mandates or its designated successor, to require reimbursement pursuant to this section.

SECTION FIVE. Construction.

(a) This measure shall be liberally construed to effectuate its purposes, which include providing adequate funds to Local Government for local services including, but not limited to, such services as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(b) This measure shall not be construed either to alter the apportionment of the ad valorem tax on real property pursuant to Section 1 of Article XIII A by any statute in effect prior to January 1, 2003 or to prevent the Legislature from altering that apportionment in compliance with the terms of this measure.

(c) Except as provided in Section 3 of Article XIII E added by Section Three of this Act, the provisions of Section 1 of Article XIII E added by Section Three of this Act apply to all statutes adopted on or after the effective date of this Act.

SECTION SIX. If any part of this measure or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications that reasonably can be given effect without the invalid provision or application.